



HHS FOIA Case No.: 2019-00144-FOIA
American Oversight v. HHS, 1:18-cv-02845-TJK (D.D.C.)

May 15, 2019

Sent via email

Austin Evers
American Oversight
1030 15th Street, N.W., Suite B255
Washington, DC 20005
foia@americanoversight.org

Dear Mr. Evers:

This is the first interim response to your October 18, 2018, Freedom of Information Act (FOIA) request to the U.S. Department of Health and Human Services (HHS). In summary, you sought the following records:

1. Records sufficient to identify any procedures, standards, guidance, policies, and rules with regard to conducting DNA tests of children and parents separated from each other by immigration authorities, including the storage or disposal of data gathered from that testing. This search should include:
 - a. Any final legal guidance or analyses produced by HHS and/or ACF regarding the decision to use DNA testing to reunite separated migrant families;
 - b. Records sufficient to show the office and program within HHS and/or ACF responsible for conducting DNA testing of separated migrant families;
 - c. Records reflecting any auditing and compliance mechanisms HHS and/or ACF have in place to ensure that the testing is in accordance with applicable laws and policies;
 - d. Records reflecting all guidance or standards for obtaining consent for DNA testing from migrant children in the care of HHS/ACF or adult family members; and
 - e. Records reflecting all plans for storage or destruction of genetic material & data obtained through DNA testing of separated families.
2. Records sufficient to show the names of the laboratory or laboratories HHS and/or ACF are working with to conduct the DNA testing, including contracts for the DNA testing of separated migrant families.
3. Records sufficient to show the types of genetic markers (e.g., STRs or SNPs) that these laboratories tested for and whether the laboratories used the CODIS STR panel to generate DNA fingerprints.
4. Records sufficient to show the cost of DNA testing of separated migrant families, and the source of the funds used for this testing, including any reassignment of funds to cover the cost of the testing.
5. All records reflecting any agreement to share information from DNA testing of separated migrant families with any entity outside of HHS, including the Federal Bureau of Investigation, any other part of the Department of Justice, any entity within the Department of Homeland Security, or the Department of State, including any memorandum of understanding with any other federal agency regarding the sharing of this information.

6. Records reflecting any procedure to reunite family members who cannot support their claims of relationship with DNA tests.
7. All documents produced in response to the July 13, 2018 letter from Reps. Jackie Speier and Karen Bass to Secretary Azar regarding transparency in HHS's use of DNA testing to reunite separated families.

Upon receipt, our office sent your request to several offices, including the Office for the Assistant Secretary for Preparedness and Response (ASPR), the Office of the Assistant Secretary for Legislation (ASL), the Office of the Assistant Secretary for Financial Resources (ASFR), and the Immediate Office of the Secretary (IOS), in order to conduct a search for records responsive to your request.

For this release, we reviewed 330 pages of records identified as responsive to items one (1), two (2), four (4), five (5), six (6), and seven (7) of your request. After a careful review of these pages, we have decided to release 144 pages to you, with redactions to portions of 32 pages under Exemptions 5 and 6 of the FOIA. One hundred and two (102) pages are being withheld, in full, under Exemption 5 of the FOIA, and 83 pages were determined to be non-responsive.

Exemption 5 protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." Among the privileges incorporated into Exemption 5 is the deliberative process privilege, which protects the "decision making processes of government agencies" and the attorney-client privilege, which protects "confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice." In accordance with these privileges, we have withheld -- among other things -- pre-decisional and deliberative conversations during the course of the Congressional response process, draft documents, and requests for Office of General Counsel advice.

Exemption 6 protects information about individuals in "personnel and medical files and similar files" when disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." Under this exemption, we have withheld cell phone numbers and the names of non-government employees.

We are continuing to review additional records and conduct additional searches for records responsive to your request. Thank you for your patience in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Hutchinson", with a large, sweeping flourish at the end.

Kim Hutchinson
Deputy Chief Agency FOIA Officer

Enclosure: 154 Pages

Wilcox, Kelly (HHS/ASFR)

From: Cochran, Norris (HHS/ASFR)
Sent: Thursday, February 14, 2019 9:27 AM
To: Wilcox, Kelly (HHS/ASFR)
Subject: FW: Commander White Declaration
Attachments: White Declaration_(final) (002).pdf

From: Moughalian, Jen (HHS/ASFR) <Jen.Moughalian@hhs.gov>
Sent: Friday, July 06, 2018 6:01 PM
To: Gentile, Mike (Appropriations) <Mike_Gentile@appro.senate.gov>; Catie_Finley@appro.senate.gov; Robin.Juliano@mail.house.gov; Salmon, Kathryn <Kathryn.Salmon@mail.house.gov>
Cc: Zuco, Paola (OS/ASFR) <Paola.Zuco@hhs.gov>; Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>
Subject: Commander White Declaration

Good Afternoon,

I would like to provide you with a declaration filed today in the U.S. District Court for the Southern District of California from Commander Jonathan White with the Office of the Assistant Secretary for Preparedness and Response (ASPR). Commander White's declaration discusses in detail actions taken by HHS to respond to the court order while ensuring the welfare and safety of minors released from its custody.

Please find excerpts below from Commander White:

"ORR has a process for placing unaccompanied alien children (UAC) with parents or other sponsors that is designed to comply with the 1997 Flores Settlement Agreement, the Homeland Security Act of 2002 (HSA), and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPPRA), as described in more detail below. This process ensures the care and safety of children who are apprehended in the United States and then referred to HHS as unaccompanied children."

"The data collection, sharing, and analysis required to determine class membership is extraordinarily time and resource intensive. There are myriad reasons for this. For instance, DHS has different information systems, and those systems were not designed to neatly capture and readily share all of the data required to determine class membership. The departments must therefore map their data manually. Also, the class potentially encompasses parents who were separated from their children before the Administration implemented the zero-tolerance policy, and those groups may not have received the same family unit identifiers from DHS as the groups separated after the Administration implemented the zero-tolerance policy."

"HHS is using DNA testing to try to verify parentage of all putative class members, as well as all children in ORR custody who ORR reasonably believes were separated from a putative class member. HHS is conducting the DNA testing concurrent with collecting and reviewing documentation of parentage, interviewing putative class members and family members, and observing communications or interactions between putative class members and children."

"ORR grantees are swabbing the cheeks of the children in ORR custody, while DHS personnel or the field teams deployed by HHS are swabbing the cheeks of the putative class members in ICE custody. The

cheek swabs are then sent to a third-party laboratory services provider to complete the DNA testing. The results are then transmitted electronically to the Incident Management Team at the SOC, which shares them with the grantees. HHS will use the results only for verifying parentage."

"HHS operates with the goal of facilitating communications between putative class members and children in ORR custody twice a week."

For additional FAQs, a photo gallery, and more information on HHS actions please click [here](#).

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17 UNITED STATES DISTRICT COURT
18 SOUTHERN DISTRICT OF CALIFORNIA
19

20 MS. L, et al.,

21 Petitioners-Plaintiffs,

22 vs.

23 U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT, et al.,

24 Respondents-Defendants.
25
26
27
28

Case No. 18cv428 DMS MDD

**DECLARATION OF
JONATHAN WHITE**

1 I, Jonathan White, for my declaration pursuant to 28 U.S.C. § 1746, hereby state and depose
2 as follows, based on my personal knowledge and information provided to me in the course of my
3 official duties:

4 1. I am a career officer in the United States Public Health Service Commissioned Corps
5 and have served in the Department of Health & Human Services in three Administrations. I am
6 presently assigned to the Office of the Assistant Secretary for Preparedness and Response, and
7 previously served as the Deputy Director of the Office of Refugee Resettlement for the
8 Unaccompanied Alien Children's Program.

9
10 2. I have been involved directly in the actions which HHS has taken to implement
11 Executive Order (EO) 13841 ("Affording Congress an Opportunity to Address Family Separation")
12 and comply with the orders in *Ms. L., et al., v. U.S. Immigration and Customs Enforcement, et al.*,
13 Case No. 18-cv-428 (S.D.Cal.). President Trump issued EO 13841 on June 20, 2018, and the Court
14 issued its orders on June 26, 2018.

15
16 **KEY HHS ACTIONS ON REUNIFICATION**

17 3. Focus on Child Safety: The Secretary of Health and Human Services has directed
18 HHS to take all reasonable actions to comply with the Court's orders and to prioritize child safety
19 and well-being when doing so.

20 4. Deployment of Additional Personnel: On June 22, 2018, the Secretary of Health and
21 Human Services directed ASPR to deploy personnel and resources to help the Office of Refugee
22 Resettlement (ORR) of the Administration for Children and Families (ACF) of HHS reunify children
23 in ORR custody with parents.

24
25 5. Determination of Class Members: HHS has worked closely with U.S. Department of
26 Homeland Security (DHS)—including U.S. Customs and Border Protection (CBP) and U.S.
27 Immigration and Customs Enforcement (ICE)—to try to determine all individuals who meet the
28

1 Court's criteria for class members. The determination of class membership involves real-time, inter-
2 agency collection and analysis of facts and data to: verify parentage; determine location of DHS
3 apprehension and separation; determine parental fitness; and evaluate whether reunification would
4 present a danger to the child. Class membership is not static; it can change due to transfers of putative
5 parents from ICE to the Bureau of Prisons (BOP) (or vice-versa), and newly-acquired information.

6
7 6. Facilitation of Regular Communication Between Class Members and Children in ORR

8 Custody: HHS has deployed field personnel to help putative class members communicate with
9 children in ORR care.

10 DEPLOYMENT OF ADDITIONAL PERSONNEL

11 7. As noted above, on June 22, 2018, the Secretary of Health and Human Services
12 activated ASPR to augment the resources that ORR had already devoted to expeditiously discharge
13 children from ORR care. ORR has had to continue performing core program functions for minors
14 who cross the border without parents (and who far outnumber separated children in ORR care). The
15 augmenting of resources has helped ORR continue performing those core functions.

16
17 8. The activating of ASPR included the Secretary's Operation Center (SOC), which is a
18 command center that operates 24 hours per day, 365 days per year. The mission of the SOC is to
19 synthesize critical public health and medical information for the U.S. Government. While typically
20 used for a public health emergency or natural disaster (e.g., Hurricane Maria in Puerto Rico), the SOC
21 can also serve as a communications hub for large, data-intensive, inter-departmental operations.

22
23 9. ASPR activated an Incident Management Team. As of July 3, 2018, the Incident
24 Management Team had 33 members (in addition to the permanent staff of the SOC). It works full-
25 time to provide logistical and administrative support.

26 10. ASPR has also dispatched approximately 115 personnel to the field to engage directly
27 with putative class members in DHS custody. Those personnel—who are organized into four field
28

1 teams— are from ACF, ASPR, the US Public Health Service Commissioned Corps, and the National
2 Disaster Medical System's Disaster Medical Assistance Team (DMAT). The DMAT is a cadre of
3 trained health and medical professionals and para-professionals that augments ASPR's capabilities
4 during public emergencies.

5 11. Finally, HHS has executed a contract with BCFS Health and Human Services, Inc.
6 ("BCFS"), to provide an additional 100 reunification case managers, plus approximately 40 staff for
7 logistical and administrative support. HHS has trained the case managers from BCFS, and is
8 deploying them on Thursday, July 5, and Friday, July 6, 2018, to augment existing field operations.
9 They too will engage directly with putative class members in ICE custody.

10 **DETERMINATION OF CLASS MEMBERS**

11 12. ORR has a process for placing unaccompanied alien children (UAC) with parents or
12 other sponsors that is designed to comply with the 1997 Flores Settlement Agreement, the Homeland
13 Security Act of 2002 (HSA), and the William Wilberforce Trafficking Victims Protection
14 Reauthorization Act of 2008 (TVPRA), as described in more detail below. This process ensures the
15 care and safety of children who are apprehended in the United States and then referred to HHS as
16 unaccompanied children.

17 13. HHS has modified and expedited its ordinary process so that it can determine class
18 membership using the Court's criteria and, to the extent possible, reunify class members and their
19 children within the Court's deadlines.

20 14. Under its modified process, HHS identifies putative class members with children in
21 ORR custody and verifies parentage. Also, HHS determines the putative class member's immigration
22 history to confirm where they were apprehended and separated from their child. Finally, HHS
23 collects and analyzes criminal, medical (e.g., communicable disease), and other information to
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1 determine the parental fitness of the putative class member and confirm that reunification would not
2 present a danger to the child. HHS generally performs these checks concurrently.

3 15. Putative class members who are not verified as parents are not included in the class
4 by HHS. Putative class members apprehended in the interior, who have relevant criminal history,
5 have a communicable disease, or are otherwise parentally unfit or present a danger to a child, are not
6 included in the class either.
7

8 16. In general, HHS knows the names and locations of all children who are in ORR care
9 and custody at all times because ORR maintains that data in its online case management portal. The
10 ORR portal includes data about each child that DHS provided when DHS transferred the child to
11 ORR custody. It also includes health and social data collected or entered by ORR personnel, grantees,
12 or contractors. While the ORR portal may contain some data about the child's parents, the ORR
13 portal was not designed to determine class membership or facilitate reunification under the criteria
14 and deadlines established by the Court's Order. Some of the data required to determine the class
15 membership of a putative class member resides with DHS, while HHS must collect some data directly
16 from the putative class member.
17

18 17. The data collection, sharing, and analysis required to determine class membership is
19 extraordinarily time and resource intensive. There are myriad reasons for this. For instance, DHS
20 has different information systems, and those systems were not designed to neatly capture and readily
21 share all of the data required to determine class membership. The departments must therefore map
22 their data manually. Also, the class potentially encompasses parents who were separated from their
23 children *before* the Administration implemented the zero-tolerance policy, and those groups may not
24 have received the same family unit identifiers from DHS as the groups separated *after* the
25 Administration implemented the zero-tolerance policy. Absent reliable and consistent identifiers,
26 HHS must glean the separations of class members and children (and related details) from the case
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1 management files on the ORR portal. On top of these variables, a parent's class membership can
2 change if the parent is transferred between ICE and the Bureau of Prisons (BOP), or if information
3 obtained directly from the parent affects the class membership analysis.

4 18. To ensure that every separated child in ORR custody who belongs to a class member
5 is identified and reunified, HHS has had each grantee at one of ORR's approximately 110 shelters
6 certify the separated children who the grantee reasonably believes are in its care. HHS has also
7 conducted a full manual review of the case management file for each one of the approximate 11,800
8 children in ORR custody—the substantial majority of whom were not separated from a putative
9 parent at the border—to confirm or rule out any indicia of separation. The manual review was
10 conducted by dozens of HHS personnel working nights and over the weekend. The results of both
11 the manual review and the grantee certifications are undergoing validation.
12

13 19. As of July 5, 2018, we have identified approximately 101 minors under age 5, within
14 ORR care, whose records contain indicia of separation. Class membership analysis for putative class
15 members associated with the larger group of minors 5 through 18 is ongoing. Also, some of the
16 identified minors may have been separated prior to crossing the border, or there may be other factors
17 that need to be explored that would not make their parents members of the class. HHS has received
18 confirmation from DHS that approximately 40 parents of children in the under-5 group are in DHS
19 custody and another 9 are in U.S. Marshal's custody. The class membership analysis for putative
20 class members associated with the remaining children in the group of 101 is ongoing.
21

22 Verifying Parentage

23 20. HHS is using DNA testing to try to verify parentage of all putative class members, as
24 well as all children in ORR custody who ORR reasonably believes were separated from a putative
25 class member. HHS is conducting the DNA testing concurrent with collecting and reviewing
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1 documentation of parentage, interviewing putative class members and family members, and
2 observing communications or interactions between putative class members and children.

3 21. DNA testing is a faster but costlier method for confirming parentage than collecting
4 and assessing documentation and anecdotal information. When ORR implements its safety and
5 suitability policies in the ordinary course of administering its program, it confirms parentage through
6 DNA testing as a last resort. HHS has dual-tracked global DNA testing to ensure child safety and to
7 expedite parentage verifications to try to comply with the deadlines in the Court's order.
8

9 22. ORR grantees are swabbing the cheeks of the children in ORR custody, while DHS
10 personnel or the field teams deployed by HHS are swabbing the cheeks of the putative class members
11 in ICE custody. The cheek swabs are then sent to a third-party laboratory services provider to
12 complete the DNA testing. The results are then transmitted electronically to the Incident
13 Management Team at the SOC, which shares them with the grantees. HHS will use the results only
14 for verifying parentage.
15

16 23. The DNA testing process takes nearly one week to complete for each putative class
17 member and child. Once HHS has made a data match between a putative class member and child, it
18 may take the field teams and grantees up to two days to further validate the match and swab cheeks.
19 It may then take up to three days for laboratory services provider to collect the sample and conduct
20 the test. Once the laboratory services provider completes the testing, it may take up to 24 hours for
21 the Incident Management Team to receive and transmit the results back to the grantees and field
22 teams.
23

24 24. The field teams are concurrently facilitating the completion of reunification
25 applications by putative class members. The packets seek medical and social data that bear on the
26 criteria for class membership, including parentage, parental fitness, and child endangerment. A copy
27 of a blank reunification application is attached at Tab 1.
28

1 25. My opinion is that DNA testing is the method of parental verification most likely to
2 protect children from harm given the compressed timeframe imposed by the court's order. The risk
3 of placing children with adults who are not their parents is a real and significant child welfare concern
4 for HHS because the experience of ORR is that children are smuggled across the border or trafficked
5 by adults who fraudulently hold themselves out as parents. The children may not disclose the
6 situation to CBP, ICE, or ORR because they may fear retaliation by the adults who brought them
7 across the border. In some instances, they may fear retaliation by their parents in their home country,
8 who have given them to the smuggler or trafficker so that they may earn money in the United States.
9 My opinion is that DNA testing mitigates the risk of the United States Government placing children
10 back with adults who are not their parents and who would endanger them.
11

12 26. If, however, HHS concludes that it can reliably and more quickly determine the
13 parentage of a putative class member based on documentation or anecdotal information collected
14 from the putative class member, then HHS will make that determination to try to comply with the
15 Court's reunification deadlines.
16

17 Background Checks for Parental Fitness

18 27. HHS is assessing the backgrounds of putative class members by reviewing summaries
19 of prior criminal background checks provided by ICE. Already such background check information
20 has come back with two results that show that two putative parents of children under five may
21 endanger the child (charges of kidnapping/rape and child cruelty), and 12 more need to be further
22 assessed.
23

24 Parental Fitness and Child Endangerment

25 28. As discussed below, HHS' ordinary process for placing children with sponsors
26 involves a safety and suitability analysis, as well as a home study in certain circumstances. These
27 checks can sometimes take weeks or months.
28

1 29. HHS has modified and expedited its ordinary process when further assessing parental
2 fitness and potential child endangerment for a potential reunification with a putative class member in
3 DHS custody. For potential reunifications with putative class members in DHS custody, any further
4 assessment of parental fitness and potential child endangerment involves only the review of the case
5 management records (which includes, for example, case review notes and other electronic files) and
6 the putative class member's completed reunification packet for indicia of child abuse or neglect. If
7 there are no such indicia, then HHS will not conduct further assessment.
8

9 30. When further assessing parental fitness and potential child endangerment for potential
10 reunifications of putative class members who are no longer in DHS custody, HHS is modifying and
11 expediting its ordinary process on a case-by-case basis to try to comply with court-ordered deadlines
12 in ways that do not endanger child welfare.
13

14 31. For example, when placing a child with a putative parental sponsor who is no longer
15 in DHS custody, HHS would ordinarily verify the potential sponsor's residential address and conduct
16 background checks of adult cohabitants to try to ensure that the potential sponsor is capable of
17 providing shelter and care – and that the potential sponsor's cohabitants do not endanger the child—
18 after placement. To try to comply with the Court's deadlines, HHS will likely need to streamline its
19 address verification process for putative class members. But HHS does not believe that it can
20 streamline background checks.
21

22 32. UAC sponsors have always included the parents of UACs , and close to half of the
23 sponsors to whom ORR ordinarily releases UACs are parents.

24 33. The *Flores* settlement agreement ("FSA") prioritizes release to parents, if they are
25 available, and also specifically provides for ORR to ensure the suitability of such releases, and to
26 protect the child from danger. See FSA paragraphs 14-18.
27
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1 34. The FSA describes a variety of criteria to consider before the government releases a
2 UAC to a parent (or other sponsor). See FSA paragraphs 14-18. These factors include:

- 3 • Verifying the identity of the parent;
- 4 • Verifying the identity and employment of the individuals offering support to the parent
- 5 and minor;
- 6 • Receiving information from their address and any future change of address;
- 7 • Ensuring the parent will provide for the minor's physical, mental, and financial well-
- 8 being;
- 9 • Investigating the living conditions in which the minor would be placed and the
- 10 standard of care he would receive;
- 11 • Interviewing the members of the household where the parent will live with the child,
- 12 and in some cases a home visit; and
- 13 • Requiring the parent to ensure the minor's presence at all future immigration
- 14 proceedings.
- 15 •
- 16 •

17 35. Furthermore, under the HSA and TVPRA, HHS has developed a series of safety and
18 suitability requirements that ensure child welfare, upon release, is protected. These policies, many
19 of which were refined after Congressional oversight, are contained in Section 2 of the ORR Policy
20 Guide: Children Entering the United States Unaccompanied, available at:

21 [https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-](https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2#2.1)
22 [2#2.1](https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2#2.1) .

24 36. The policies include identifying the sponsor; submitting the application for release
25 and supporting documentation; evaluating the suitability of the sponsor, including verification of
26 the sponsor's identity and relationship to the child; background checks; and in some cases home
27 studies; and planning for post-release.

1 37. ORR requires all potential sponsors, including parents, to undergo fingerprinting in
2 order to ensure the safety and suitability of release. The fingerprints are used to run background
3 checks of databases involving criminal history. ORR also checks sexual abuse information, child
4 abuse information, and other public record sources.

5 38. ORR also requires that, if there are other adults living in the household with a
6 sponsor (including a parent), those adults also undergo background checks. This ensures the child
7 will not be endangered if, for example, those household members have a history of child abuse or
8 sexual abuse that ORR must further consider before approving the release.
9

10 39. ORR also requires that sponsors, including parents, identify an alternative caregiver,
11 who will be able to provide care in the event the original sponsor is unavailable. These adult
12 caregivers must also be identified and undergo background checks.

13 40. To ensure safety and suitability for children, ORR considers the following factors
14 when evaluating release of a UAC to parents, other family members, and other potential sponsors in
15 the community:
16

- 17 a. The nature and extent of the sponsor's previous and current relationship with the child or
18 youth and the unaccompanied alien child's family, if a relationship exists.
- 19 b. The sponsor's motivation for wanting to sponsor the child or youth.
- 20 c. The UAC's parent or legal guardian's perspective on the release to the identified
21 potential sponsor (for cases in which the parent or legal guardian is not the sponsor).
- 22 d. The child or youth's views on the release and whether he or she wants to be released to
23 the individual.
- 24 e. The sponsor's understanding of the unaccompanied alien child's needs, as identified by
25 ORR and the care provider.
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- f. The sponsor's plan to provide adequate care, supervision, access to community resources, and housing.
- g. The sponsor's understanding of the importance of ensuring the unaccompanied alien child's presence at all future hearings or proceedings, including immigration court proceedings, and the sponsor's receipt of Legal Orientation Program for Custodians information that ORR provides to all potential sponsors.
- h. The linguistic and cultural background of the child or youth and the sponsor, including cultural, social, and communal norms and practices for the care of children.
- i. The sponsor's strengths, resources, and mitigating factors in relation to any risks or special concerns of the child or sponsor, such as a criminal background, history of substance abuse, mental health issues, or domestic violence and child welfare concerns.
- j. The unaccompanied alien child's current functioning and strengths in relation to any risk factors or special concerns, such as children or youth who are victims of human trafficking; are a parent or are pregnant; have special needs, disabilities or medical or mental health issues; have a history of criminal, juvenile justice, or gang involvement; or a history of behavioral issues.

41. In certain cases, the TVPRA requires a home study, prior to release. 8 U.S.C. § 1232(c)(3)(B) states: "A home study shall be conducted for a child who is a victim of a severe form of trafficking in persons, a special needs child with a disability (as defined in section 12102 of title 42), a child who has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened, or a child whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence." In circumstances in which a home study is not required by the TVPRA or ORR policy, the Case Manager and an independent third party Case

1 Coordinator may recommend that a home study be conducted if they agree that the home study will
2 provide additional information required to determine that the sponsor is able to care for the health,
3 safety and well-being of the child.

4 42. ORR does not disqualify potential sponsors on the basis of their immigration status,
5 but does require sponsors (including parents) to complete a sponsor care plan. Among other things,
6 the care plan identifies the adult caregiver who will act for the sponsor, should the sponsor become
7 unavailable, and how such caregiver will be notified of such situation. It also includes a safety plan
8 in some circumstances.

10 43. Throughout the release process, care providers work with the child and sponsor so
11 that they can plan for the child's after care needs. This involves working with the sponsor and the
12 unaccompanied alien child to prepare them for post-ORR custody, assess the sponsor's ability to
13 access community resources, and provide guidance regarding safety planning, sponsor care plans,
14 and accessing services for the child. The care provider explains the U.S. child abuse and neglect
15 standards and child protective services that are explained on <https://www.childwelfare.gov>, human
16 trafficking indicators and resources, and basic safety and how to use the 9-1-1 number in
17 emergency situations.

19 44. Once the assessment is complete and a sponsor has been approved, the sponsor
20 enters into an agreement with the Federal government in which he or she agrees to:

- 22 a. Provide for the physical and mental well-being of the child, including but not
23 limited to, food, shelter, clothing, education, medical care and other services as
24 needed.
- 25 b. Attend a legal orientation program provided under the Department of
26 Justice/Executive Office for Immigration Review's (EOIR) Legal Orientation
27 Program for Custodians (Sponsors), if available where he or she resides.

- 1 c. Depending on where the unaccompanied alien child's immigration case is
2 pending, notify the local Immigration Court or the Board of Immigration
3 Appeals within 5 days of any change of address or phone number of the child
4 (Form EOIR-33). (If applicable, file a Change of Venue motion on the child's
5 behalf.¹⁰ A "change of venue" is a legal term for moving an immigration
6 hearing to a new location.)
7
8 d. Notify the DHS/U.S. Citizenship and Immigration Services within 10 days of
9 any change of address by filing an Alien's Change of Address Card (AR-11) or
10 electronically at <http://www.uscis.gov/ar-11>.
11
12 e. Ensure the unaccompanied alien child's presence at all future proceedings before
13 the DHS/Immigration and Customs Enforcement (ICE) and the DOJ/EOIR.
14
15 f. Ensure the unaccompanied alien child reports to ICE for removal from the
16 United States if an immigration judge issues a removal order or voluntary
17 departure order.
18
19 g. Notify local law enforcement or state or local Child Protective Services if the
20 child has been or is at risk of being subjected to abuse, abandonment, neglect or
21 maltreatment or if the sponsor learns that the child has been threatened, has been
22 sexually or physically abused or assaulted, or has disappeared. (Notice should be
23 given as soon as it is practicable or no later than 24 hours after the event or after
24 becoming aware of the risk or threat.)
25
26 h. Notify the National Center for Missing and Exploited Children at 1-800-843-
27 5678 if the unaccompanied alien child disappears, has been kidnapped, or runs
28 away. (Notice should be given as soon as it becomes practicable or no later than
24 hours after learning of the child's disappearance.)

- 1 i. Notify ICE at 1-866-347-2423 if the unaccompanied alien child is contacted in
2 any way by an individual(s) believed to represent an alien smuggling syndicate,
3 organized crime, or a human trafficking organization. (Notice should be provided
4 as soon as possible or no later than 24 hours after becoming aware of the
5 information.)
6
7 j. In case of an emergency, such as serious illness, destruction of home, etc.,
8 temporarily transfer physical custody of the child to another person who will
9 comply with the terms of the Sponsor Care Agreement.
10
11 k. In the event that a sponsor who is not the child's parent or legal guardian is no
12 longer able and willing to care for the unaccompanied alien child and is unable to
13 temporarily transfer physical custody, notify ORR using the ORR National Call
14 Center, at 1-800-203-7001.

15 45. If HHS cannot reasonably complete processes that are material to ensuring the welfare
16 of the children presently in ORR custody within the deadlines ordered by the Court, then HHS has
17 no choice but to make class membership determinations with incomplete information. The use of
18 incomplete information increases the risk of not only incorrect class membership determinations, but
19 also reunifications that endanger the welfare of the children presently in ORR care.

20 46. My opinion is that some relaxing of the Court's deadlines is needed to allow HHS, on
21 a case-by-case basis, to complete processes that HHS determines are necessary to make informed
22 class membership determinations and to protect the welfare of the children presently in ORR custody.
23

24 FACILITATION OF CLASS MEMBER COMMUNITIONS

25 47. HHS has facilitated communication between putative class members by helping
26 putative class members connect with case managers. HHS has directed field staff to help facilitate a
27 conversation between a putative class member and his or her child. For example, field staff may call
28

1 a case manager in a minor's shelter and ask the case manager to call or contact the detained parent.
2 In other instances, the detained adult may be given the shelter case manager's telephone number.

3 48. The ORR Helpline is a bilingual call center that ordinarily works with ORR grantees
4 to facilitate communications between potential sponsors and the children in the care of the grantees.
5 See <https://www.acf.hhs.gov/orr/about/ucs/contact-info> (last visited July 5, 2018). Potential sponsors
6 who call the ORR Helpline provide their name, contact information, relationship to the child, and
7 other information to the ORR Helpline representative, who communicates the information to the ORR
8 grantee caring for the child. The ORR grantee then responds to the potential sponsor and facilitates
9 direct communications with the child and a case worker. The ORR Helpline does not verify parentage
10 or make determinations regarding parental fitness or child endangerment.
11

12 49. HHS operates with the goal of facilitating communications between putative class
13 members and children in ORR custody twice a week.
14

15
16
17 I declare under penalty of perjury that the foregoing is true and correct. Executed on July 5,
18 2018.
19

20
21
22 

23 Jonathan White,
24
25
26
27
28

Wilcox, Kelly (HHS/ASFR)

From: Cochran, Norris (HHS/ASFR)
Sent: Thursday, February 14, 2019 9:30 AM
To: Wilcox, Kelly (HHS/ASFR)
Subject: FW: DUE 4:00pm Friday 12/13: Azar QFRs Senate Finance
Attachments: SFC June 26 2018 Hearing Azar QFRs Master Compilation v.3 - clean.docx

From: Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>
Sent: Friday, December 14, 2018 3:33 PM
To: Waskiewicz, Stephen (OS/ASFR) <Stephen.Waskiewicz@hhs.gov>
Cc: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Pugliese1, Alanna (HHS/ASFR) <Alanna.Pugliese1@hhs.gov>; Cormier, Justin (HHS/ASFR) <Justin.Cormier@hhs.gov>; Bernier, Michael (HHS/ASFR) <Michael.Bernier@hhs.gov>; Cabezas, Miriam (HHS/ASFR) <Miriam.Cabezas@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Subject: RE: DUE 4:00pm Friday 12/13: Azar QFRs Senate Finance

Hi Steve: About half of these QFRs concern UAC including the status of separated children. OGC should (b)(5)

(b)(5)

From: Pugliese1, Alanna (HHS/ASFR) <Alanna.Pugliese1@hhs.gov>
Sent: Friday, December 14, 2018 2:59 PM
To: Waskiewicz, Stephen (OS/ASFR) <Stephen.Waskiewicz@hhs.gov>
Cc: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Cormier, Justin (HHS/ASFR) <Justin.Cormier@hhs.gov>; Bernier, Michael (HHS/ASFR) <Michael.Bernier@hhs.gov>; Cabezas, Miriam (HHS/ASFR) <Miriam.Cabezas@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>
Subject: RE: DUE 4:00pm Friday 12/13: Azar QFRs Senate Finance

Adding Nick.

Alanna Pugliese

ASFR/Office of Budget
U.S. Department of Health and Human Services
Office: (202) 260-6504
alanna.pugliese1@hhs.gov

From: Pugliese1, Alanna (HHS/ASFR)
Sent: Friday, December 14, 2018 2:08 PM
To: Waskiewicz, Stephen (OS/ASFR) <Stephen.Waskiewicz@hhs.gov>
Cc: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Cormier, Justin (HHS/ASFR) <Justin.Cormier@hhs.gov>; Bernier, Michael (HHS/ASFR) <Michael.Bernier@hhs.gov>; Cabezas, Miriam (HHS/ASFR) <Miriam.Cabezas@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Subject: FW: DUE 4:00pm Friday 12/13: Azar QFRs Senate Finance

Hi Steve,

DDP has reviewed and cleared all non-UAC QFRs. We are still reviewing the UAC responses and will send any comments/edits by 4 pm.

Thanks,
Alanna

Alanna Pugliese

ASFR/Office of Budget

U.S. Department of Health and Human Services

Office: (202) 260-6504

alanna.pugliese1@hhs.gov

From: Waskiewicz, Stephen (OS/ASFR) <Stephen.Waskiewicz@hhs.gov>

Sent: Thursday, December 13, 2018 11:35 AM

To: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Cormier, Justin (HHS/ASFR) <Justin.Cormier@hhs.gov>; Cabezas, Miriam (HHS/ASFR) <Miriam.Cabezas@hhs.gov>; McMillen, Cheryl (HHS/ASFR) <Cheryl.McMillen@HHS.GOV>; Elder, Mark (HHS/ASFR) <Mark.Elder@HHS.GOV>; Kelley, Curtis (HHS/ASFR) <Curtis.Kelley@hhs.gov>

Subject: FW: DUE 4:00pm Friday 12/13: Azar QFRs Senate Finance

Importance: High

Given the cross cutting nature of these QFRs, I wanted to share with all of you for your review.

Thanks,

Steve

From: Arbes, Sarah (HHS/ASL) <Sarah.Arbes@hhs.gov>

Sent: Thursday, December 13, 2018 11:30 AM

To: ASPEClearances (OS/ASPE) <ASPEClearances@hhs.gov>; OGC/Legislation (GCL) <OGC_Legislation@ees.hhs.gov>; O'Brien, John (HHS/IOS) <John.Obrien@hhs.gov>; Moughalian, Jen (HHS/ASFR) <Jen.Moughalian@hhs.gov>; Brady, Will (HHS/IOS) <William.Brady@hhs.gov>; Waskiewicz, Stephen (OS/ASFR) <Stephen.Waskiewicz@hhs.gov>; Kemper, Laura (HHS/ASL) <Laura.Kemper@hhs.gov>; Wynne, Maggie (HHS/IOS) <Margaret.Wynne@hhs.gov>; Parker, Jim (HHS/IOS) <Jim.Parker@hhs.gov>; Giroir, Brett (HHS/OASH) <Brett.Giroir@hhs.gov>; Stannard, Paula (HHS/IOS) <Paula.Stannard@hhs.gov>; Valentine, Steven (HHS/OASH) <Steven.Valentine@hhs.gov>; McGuffee, Tyler Ann (HHS/IOS) <Tylerann.McGuffee@hhs.gov>; Bell, Kathryn (HHS/IOS) <Kathryn.Bell@hhs.gov>

Cc: Torres, Alfonso (HHS/ASL) <Alfonso.Torres@hhs.gov>; Morse, Sara (HHS/ASL) <Sara.Morse@hhs.gov>; Armstrong, Rebekah (HHS/ASL) <Rebekah.Armstrong@hhs.gov>; Pence, Laura (HHS/IOS) <Laura.Pence@hhs.gov>

Subject: DUE 4:00pm Friday 12/13: Azar QFRs Senate Finance

All – Due to an unexpected time constraint from OMB, we need to turn around these Finance Committee QFRs quickly (apologies in advance)!

Deadline is 4:00pm on Friday, December 13th

To ease your key word search, topics in these QFRs are as follows:

- Drug Pricing
- UAC
- Antibacterial resistance
- UDI
- Liver transplants
- Medicaid Expansion
- TX v. Azar
- Opioids
- Rural Health

<< File: SFC June 26 2018 Hearing Azar QFRs Master Compilation v.3 - clean.docx >>

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Wilcox, Kelly (HHS/ASFR)

From: Cochran, Norris (HHS/ASFR)
Sent: Thursday, February 14, 2019 9:30 AM
To: Wilcox, Kelly (HHS/ASFR)
Subject: FW: Final Report and Transmittal Letters - Separated UAC RTC
Attachments: Letter Blunt 111518.pdf; Letter Cole 111518.pdf; Letter Murray 111518.pdf; Letter DeLauro 111518.pdf; HHS Report to Congress on Separated Children 111518.pdf; HHS Report to Congress on Separated Children 111518 FINAL.docx

From: Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Sent: Thursday, November 15, 2018 5:21 PM
To: Waskiewicz, Stephen (OS/ASFR) <Stephen.Waskiewicz@hhs.gov>
Cc: Moughalian, Jen (HHS/ASFR) <Jen.Moughalian@hhs.gov>; Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>; Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Gelbmann, Jane (HHS/ASFR) <Jane.Gelbmann@hhs.gov>
Subject: Final Report and Transmittal Letters - Separated UAC RTC

Hi Steve –

Please find attached the final signed letters and report. I also included a word version of the report just in case.

Thank you,

Jillian

Jillian E. Curtis
Office of the Secretary/ASFR/Budget Office
U.S. Department of Health and Human Services
(202) 690-8717



Please consider the environment before printing this e-mail.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Washington, D.C. 20201

The Honorable Roy Blunt
Chairman
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
Committee on Appropriations
United States Senate
Washington, DC 20510

NOV 15 2018

Dear Chairman Blunt:

I am pleased to transmit the report entitled "Report to Congress on Separated Children," as required by Sec. 233 of the Department of Health and Human Services Appropriations Act, 2019.

Sincerely,

Jen Moughalian
Acting Assistant Secretary for Financial Resources

Enclosure



The Honorable Tom Cole
Chairman
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

NOV 15 2018

Dear Chairman Cole:

I am pleased to transmit the report entitled "Report to Congress on Separated Children," as required by Sec. 233 of the Department of Health and Human Services Appropriations Act, 2019.

Sincerely,

Jen Moughalian
Acting Assistant Secretary for Financial Resources

Enclosure



The Honorable Tom Cole
Chairman
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

NOV 15 2018

Dear Chairman Cole:

I am pleased to transmit the report entitled "Report to Congress on Separated Children," as required by Sec. 233 of the Department of Health and Human Services Appropriations Act, 2019.

Sincerely,

Jen Moughalian
Acting Assistant Secretary for Financial Resources

Enclosure



Washington, D.C. 20201

The Honorable Rosa DeLauro
Ranking Member
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

NOV 15 2018

Dear Representative DeLauro:

I am pleased to transmit the report entitled "Report to Congress on Separated Children," as required by Sec. 233 of the Department of Health and Human Services Appropriations Act, 2019.

Sincerely,

Jen Moughalian
Acting Assistant Secretary for Financial Resources

Enclosure

Report to Congress on Separated Children

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| ORR POLICY FOR SEXUAL ABUSE ALLEGATIONS | 9 |
| ESTIMATE OF EXPENDITURES IN FY 2018 AND FY 2019 | 10 |
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GLOSSARY

American Civil Liberties Union (ACLU)
Area of Responsibility (AOR)
Country of Origin (COO)
Customs and Border Patrol (CBP)
Unaccompanied Alien Child (UAC)
Department of Health and Human Services (HHS)
Department of Homeland Security (DHS)
Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR)
Immigration and Customs Enforcement (ICE)
Incident Management Team (IMT)
National Crime Information Center (NCIC)
Liaison Officer (LNO)
Non-Governmental Organization (NGO)
Notice to Appear (NTA)
Office of Refugee Resettlement (ORR)
Point of Contact (POC)
U.S. Department of State (DOS)
William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA)
Zero Tolerance Policy (ZTP)

INTRODUCTION

On March 1, 2003, the Homeland Security Act of 2002 transferred responsibilities for the care and placement of unaccompanied alien children (UAC) from the Commissioner of the Immigration and Naturalization Service within the Department of Justice (DOJ) to the Director of the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS). Since then, ORR has cared for hundreds of thousands of children, incorporating child welfare practices as well as the principles and provisions established by the *Flores* Settlement Agreement in 1997, the Homeland Security Act of 2002, and the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008.

Department of Homeland Security (DHS) officials transfer UAC they apprehend to the care and custody of ORR. An unaccompanied alien child is a person who has no lawful immigration status in the United States and has not attained 18 years of age, and with respect to whom: (1) there is no parent or legal guardian in the United States; or (2) no parent or legal guardian in the United States is available to provide care and physical custody.¹ ORR promptly places an unaccompanied alien child in the least restrictive setting that is in the best interest of the child, taking into consideration danger to self, danger to the community, and risk of flight.² ORR takes into consideration the unique nature of each child's situation and incorporates child welfare principles when making placement, clinical, case management, and release decisions.³ DHS must refer UAC to HHS within 72 hours of making the UAC determination, except in the case of exceptional circumstances.⁴

On April 6, 2018, DOJ announced a zero-tolerance policy for criminal illegal entry, which affected parents crossing the border illegally with their children.⁵ Attorney General Sessions notified all U.S. Attorney's Offices along the southwest border of the "zero-tolerance policy" (ZTP) for offenses under 8 U.S.C. § 1325(a), which prohibits both attempted illegal entry and illegal entry into the United States by an alien.⁶ Persons who applied to enter the United States through a Port of Entry were not charged with offenses under 8 U.S.C. § 1325(a).

Pursuant to the ZTP, DHS officers referred the parent(s) of purported family units to the Department of Justice for prosecution for unauthorized entry into the United States. DHS then transferred the children as "unaccompanied alien children" to HHS because their parents were not available to provide them care and physical custody.

On June 20, 2018, President Trump issued an Executive Order directing the Secretary of Homeland Security to maintain custody of alien families during the pendency of any criminal improper entry or immigration proceedings involving their members unless there was a concern

¹ 6 U.S.C. § 279 (g)(2).

² 8 U.S.C. § 1232(c)(2).

³ ORR Guide: Children Entering the United States Unaccompanied (UAC Policy Guide) Section 1.2.1 (2018).

⁴ 8 U.S.C. § 1232(b)(3). A UAC determination may be made at or after the time of apprehension by DHS, depending on the facts and circumstances.

⁵ Department of Justice, Office of Public Affairs, April 6, 2018.

⁶ *Id.*

that detention of the alien child with the child's alien parent would pose a risk to the child's welfare.⁷ The order indicated that the parent(s) and children would no longer be separated.

In *Ms. L. v U.S. Immigration and Customs Enforcement*⁸, Judge Dana Sabraw of the United States District Court for the Southern District of California ordered the federal government to safely reunify class members (certain separated parents) with their children. HHS had custody of the separated children, thus the agency took a leading role in creating an interagency plan for reunification of the separated children with their parents.

Congress included the language below in the Department of Health and Human Services Appropriations Act, 2019 (the "Appropriations Act"):

"SEC. 233. The Secretary shall submit to the Congress by November 15, 2018, a plan to promptly facilitate the reunification of children separated from their parents and placed in the custody of the Office of Refugee Resettlement ("ORR"), including the reunification of children with parents who are no longer in the United States:

Provided, That such plan shall include possible children of potential class members in the class-action lawsuit *Ms. L v. ICE*, as identified in the Joint Status Report filed on September 6, 2018:

Provided further, That such plan shall describe the activities the Administration has undertaken to locate parents who are no longer in the United States and to reunify those parents with their children, including (1) the process for tracking children and parents, (2) the process for coordinating interagency responsibilities for communication, location, and reunification of such parents, and (3) the number of parents that the Administration has been unable to contact:

Provided further, That such plan shall provide detailed information on how many parents have been determined to be ineligible for reunification and the reasons for those determinations:

Provided further, That such plan shall identify the number of children in ORR custody whose parents were deported that (1) have been reunified with their parents, (2) have been released into the custody of a family member other than a parent, (3) have been released into the custody of a sponsor who is not a family member, and (4) are still in ORR custody:

Provided further, That such plan shall provide detailed information regarding the procedures the Administration follows when child sexual abuse is alleged at facilities operated by ORR contractors:

Provided further, That such plan shall include an estimate of expenditures in fiscal year

⁷ Exec. Order No. 13841, "Affording Congress an Opportunity to Address Family Separation", 83 Fed. Reg. 29435-29436 (June 20, 2018).

⁸ *Ms. L. v U.S. Immigration and Customs Enforcement*, Case 3:18-cv-00428 (S.D. Cal. 2018).

2018 and an estimate of anticipated expenditures in fiscal year 2019 related to housing children who were separated from their parents at the border as well as activities to reunify such children with their parents:

Provided further, That if such plan is not submitted by the deadline identified above, the Department of Health and Human Services may not, until such a plan has been submitted to the Congress, obligate funds from the Fund established by section 223 of title II of division G of Public Law 110–161, except to obligate H. R. 6157—117 funds for projects identified in the joint explanatory statement accompanying this Act.”⁹

ORR's ORDINARY UAC PROCESS

To provide appropriate context for the information presented in this report, it is necessary to explain ORR's ordinary process for tracking UAC from intake through discharge—that is, how ORR brings UAC into its care, creates and maintains records on UAC in an electronic tracking and case management system known as the UAC Portal, and discharges UAC to sponsors.

The U.S. Border Patrol (USBP) and U.S. Immigration Customs Enforcement (ICE) are responsible for the majority of UAC referrals to ORR. USBP's E3 system of record database is able to push UAC biographic, apprehension, and, other referral information into ORR's UAC Portal's referral page. ICE has access to ORR's UAC Portal referral page and directly enters UAC information into the system. In the summer of 2018, a checkbox was added to the UAC Portal's referral page to indicate whether a child has been separated from family. The referral page also has a notes section where USBP and ICE can type in the name and other information of the separated family member, including their alien number. Additionally USBP and ICE can enter this information into the parent/relative information section of the referral.

When ORR receives a child that another federal agency has referred to its care, ORR performs several different assessments. These include:

- The UAC Assessment, which covers biographic, family, legal/migration, medical, substance abuse, and mental health history
- A trafficking assessment, which is part of the UAC Assessment and identifies whether a child has been trafficked
- An educational assessment, which determines academic level
- A medical assessment, which occurs within 48 hours of arrival in the ORR care provider facility
- The Assessment for Risk, which occurs within 72 hours of admission and every 30 days thereafter to reduce the risk that a child is sexually abused or abuses someone else in ORR care
- The UAC Case Review, which updates the child's file initially on the child's 30th day in care and subsequently every 30 days (or 90 days for children in long-term foster care)

⁹ “Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019,” Pub. L. No. 115-245, div. B, title II, sec. 233.

Intakes policies are located at section 1 and 3 of the ORR policy guide, located at <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>.

As ORR completes these assessments, grantee staff enter the alien registration number, name, biographical information and several assessments of the UAC into the UAC Portal. Case managers throughout the UAC grantee network use this system to create a complete case file for each child.¹⁰ Case managers enter case reviews into the UAC Portal every 30 days.¹¹ The Sponsor Information section is updated when new information becomes available.¹² When ORR releases a child to a sponsor, the sponsor must give ORR documentation of the address where the child will be living.¹³ At the time of physical release to a sponsor, ORR's legal obligations toward the child end.

Although ORR is not legally obligated to do so, thirty days after release to a sponsor, the ORR Call Center contacts the sponsor to ask questions as to the safety and well-being of the discharged child.¹⁴ The ORR Call Center is a contracted provider. After the 30-day well-being and safety call, ORR retains the record of the child but adds no additional information unless the child returns to ORR custody via a new referral from a Federal agency, which is rare.¹⁵

ORR policies on tracking children as they progress towards discharge appear in sections 2 and 3 of the UAC Policy Guide: <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>.

REUNIFICATION PLANS FOR SEPARATED CHILDREN

The language in the Appropriations Act on the reunification plans for separated children is as follows:

The Secretary shall submit to the Congress by November 15, 2018, a plan to promptly facilitate the reunification of children separated from their parents and placed in the custody of the Office of Refugee Resettlement ("ORR"), including the reunification of children with parents who are no longer in the United States:

Provided, that such plan shall include possible children of potential class members in the class-action lawsuit *Ms. L v. ICE*, as identified in the Joint Status Report filed on September 6, 2018:

Provided further, that such plan shall describe the activities the Administration has undertaken to locate parents who are no longer in the United States and to reunify those parents with their children, including (1) the process for tracking children and parents, (2) the process for coordinating interagency responsibilities for communication, location, and

¹⁰ UAC Manual of Procedures (2017), Section 1.3, Referrals to ORR and Initial Placements.

¹¹ UAC Policy Guide (2018), Section 3.3.1, UAC Assessments and Case Review.

¹² UAC Policy Guide (2018), Section 2.2.2, Contacting Potential Sponsors.

¹³ UAC Policy Guide (2018), Section 2.2.4, Required Documents for Submission with the Application for Release.

¹⁴ UAC Policy Guide (2018), Section 2.8.4, Safety and Wellbeing Follow Up Call.

¹⁵ UAC Policy Guide (2018), Section 2.8.3, Closing the Case File.

reunification of such parents, and (3) the number of parents that the Administration has been unable to contact.

HHS and its interagency partners are executing plans, approved by Judge Dana Sabraw in *Ms. L.*, for reunification of separated minors with their parents, which provide the information requested by Congress. These plans filed in *Ms. L.* are identified below and attached hereto:

- HHS/DHS Unified Plan of Operations For Reunification of 5-17 Year Old Population To Include Flow Chart and Summary of Required Steps, 14 July 2018.¹⁶
- Interagency Plan for Reunification of Separated Minors with Removed Parents, August 16, 2018.¹⁷

As of November 6, 2018, there were zero departed *Ms. L.* class members who the Administration had been unable to contact.¹⁸

STATISTICS

The Appropriations Act requests statistics related to separated parents and children in *Ms. L.* Specifically, it states:

Provided further, that such plan shall provide detailed information on how many parents have been determined to be ineligible for reunification and the reasons for those determinations:

Provided further, that such plan shall identify the number of children in ORR custody whose parents were deported that

- (1) have been reunified with their parents,
- (2) have been released into the custody of a family member other than a parent,
- (3) have been released into the custody of a sponsor who is not a family member, and
- (4) are still in ORR custody.

As of November 6, 2018, there were 30 children in *Ms. L.* whose parents are ineligible for reunification because the parent was determined to be unfit or present a danger to the child, based on the parent's criminal history or other individualized factual considerations bearing on fitness or dangerousness. As of November 6, 2018, 23 of these children remained in ORR custody.¹⁹

¹⁶ July 15, 2018 Notice, *Ms. L. v U.S. Immigration and Customs Enforcement*, No. 3:18-cv-00428 (S.D. Cal. 2018), ECF No. 109, 109-1.

¹⁷ August 16, 2018 Notice Regarding Implementation of Plan for Reunifications Abroad, *Ms. L. v U.S. Immigration and Customs Enforcement*, Case No. 3:18-cv-00428 (S.D. Cal. 2018), ECF No. 189.

¹⁸ See November 8, 2018 Joint Status Report, *Ms. L. v U.S. Immigration and Customs Enforcement*, Case No. 3:18-cv-00428 (S.D. Cal. 2018) (attached).

¹⁹ *Id.*

As of November 6, 2018, there were 117 children in ORR care with parents who were Ms. L. class members presently departed from the United States. The parents of 99 of the 117 children waived reunification through the ACLU. In contrast, the parents of only 7 of the 117 children chose reunification in their country of origin through the ACLU. ORR was still waiting for the ACLU to communicate parental intent for 11 of the 117 children. Because the 117 children were “in ORR custody” as of November 6, 2018, none of them were reunified with a parent, released to a family member other than a parent, or released to a sponsor who is not a family member.²⁰

The data reporting to the *Ms. L.* court has not included cumulative reporting of discharges of possible children of potential class members who are presently departed from the United States, separate from other data points. Nevertheless, as of November 6, 2018, ORR had discharged 411 possible children of potential *Ms. L.* class members who were presently departed from the United States. One hundred and sixty of the 411 children were reunified with a parent. Eighty-seven of the 411 children were discharged to a Category 2 sponsor, meaning an immediate relative, such as a brother, sister, aunt, uncle, grandparent, or first cousin. Thirty-four of the 411 children were discharged to a Category 3 sponsor, meaning a distant relative or an unrelated adult individual.

ORR POLICY FOR SEXUAL ABUSE ALLEGATIONS

The language in the Appropriations Act on sexual abuse is as follows:

Provided further, that such plan shall provide detailed information regarding the procedures the Administration follows when child sexual abuse is alleged at facilities operated by ORR contractors.

ORR has a zero-tolerance policy for all forms of sexual abuse and sexual harassment in all of its care provider facilities.²¹ Care providers must report sexual abuse, sexual harassment, or inappropriate sexual behavior that occur in ORR-funded programs caring for children immediately but no later than four hours after learning of the allegation.²² Care providers report this information via a sexual abuse significant incident report (SIR). For purposes of a SIR, sexual abuse can include a wide range of allegations, and care providers are trained to over-report out of an abundance of caution.

Care providers report to the U.S. Department of Justice’s Federal Bureau of Investigation and the HHS’ Office of the Inspector General any allegations of sexual abuse that are subject to federal reporting laws or could constitute violations of federal law. Sexual abuse is defined at 34 U.S.C. § 20341 and in ORR regulations at 45 C.F.R. § 411.6.

Care providers also must follow state licensing requirements to report allegations of sexual harassment and inappropriate sexual behavior. Care providers report allegations of sexual abuse to ORR, child protective services (CPS), and the state licensing agency. In the case of a sexual

²⁰ *Id.*

²¹ UAC Policy Guide (2018), Section 4.1.1, Sexual Abuse.

²² UAC Policy Guide (2018), Section 4.10.2, Care Provider Reporting Requirements.

abuse allegation involving minors, CPS or state licensing may cross-report to local law enforcement. If an allegation involves an adult, the care provider must independently notify local law enforcement.

If a sexual abuse allegation involves a staff member, the care provider is required by regulation to suspend the staff member from all duties that would provide the staff member with access to UAC pending investigation.

ORR policies on sexual abuse and harassment appear on-line in the ORR Policy Guide at section 4: <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>.

ORR also published an interim final rule on the “Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children.”²³

ESTIMATE OF EXPENDITURES IN FY 2018 AND FY 2019

The language in the Appropriations Act for financial information is as follows:

Provided further, that such plan shall include an estimate of expenditures in fiscal year 2018 and an estimate of anticipated expenditures in fiscal year 2019 related to housing children who were separated from their parents at the border as well as activities to reunify such children with their parents.

The estimates of expenditures in FY 2018 and FY 2019 related to the care and reunification (or other appropriate discharge) of possible children of potential *Ms. L.* class members is below. The estimates are based on 2,667 minors identified as possible children of potential *Ms. L.* class members. ORR estimates the shelter costs, including clothing, education, recreation, and food at \$58,800,000. The estimated DNA screening costs are \$1,400,000.²⁴ The estimated medical services are \$2,670,000. The estimated legal services are \$4,010,000. The estimated case management and program support costs are \$13,470,000.²⁵ As of November 1, 2018, the total estimated cost is \$80,350,000, or four percent of the total amount of funds obligated for the UAC program in FY 2018. This cost is only a small part of total UAC costs in FY 2018. The costs incurred are ongoing as separated children remain in ORR custody.

| Number of Children | Average Days in ORR Care - per child | Estimated Shelter Costs - including Education and Food | Estimated DNA Screening | Estimated Medical Services | Estimated Legal Services | Case Management and Program Support | Total Estimated Cost |
|--------------------|--------------------------------------|--|-------------------------|----------------------------|--------------------------|-------------------------------------|----------------------|
| 2,667 | 83 | \$58,800,000 | \$1,400,000 | \$2,670,000 | \$4,010,000 | \$13,470,000 | \$80,350,000 |

²³ 45 CFR Part 411.

²⁴ DNA testing is utilized to verify parentage for children and parents where authenticated documents (such as birth certificates) are unavailable.

²⁵ This includes funding ORR reimbursed HHS/ASPR: \$3,500,000 for assistance in reunification costs; transportation costs to reunification sites; and costs incurred by grantees and contractors.

CONCLUSION

HHS and its interagency partners created reunification plans to meet the orders issued by the court in *Ms. L*. The plans continue to be executed to finish any remaining reunifications of *Ms. L* class members. As of November 6, 2018, there were only 25 possible children of potential class members in ORR care who had not been reunified with their parents. Those 25 children do not overlap with any of the 99 children in ORR care with a parent presently departed from the United States whose intent not to reunify was confirmed by the ACLU. Nor do they overlap with any of the 17 children in ORR care with a parent in the United States who has indicated an intent not to reunify. When a parent indicates an intent not to reunify, ORR discharges the child to a sponsor pursuant to its ordinary TVPRA processes (which generally involve further vetting and may take longer to complete than a reunification under the *Ms. L*. court's orders).

As of November 6, 2018, more than 92 percent of the possible children of potential class members in *Ms. L*. have been reunified or otherwise appropriately discharged.

Report to Congress on Separated Children

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GLOSSARY

American Civil Liberties Union (ACLU)
Area of Responsibility (AOR)
Country of Origin (COO)
Customs and Border Patrol (CBP)
Unaccompanied Alien Child (UAC)
Department of Health and Human Services (HHS)
Department of Homeland Security (DHS)
Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR)
Immigration and Customs Enforcement (ICE)
Incident Management Team (IMT)
National Crime Information Center (NCIC)
Liaison Officer (LNO)
Non-Governmental Organization (NGO)
Notice to Appear (NTA)
Office of Refugee Resettlement (ORR)
Point of Contact (POC)
U.S. Department of State (DOS)
William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA)
Zero Tolerance Policy (ZTP)

INTRODUCTION

On March 1, 2003, the Homeland Security Act of 2002 transferred responsibilities for the care and placement of unaccompanied alien children (UAC) from the Commissioner of the Immigration and Naturalization Service within the Department of Justice (DOJ) to the Director of the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS). Since then, ORR has cared for hundreds of thousands of children, incorporating child welfare practices as well as the principles and provisions established by the *Flores* Settlement Agreement in 1997, the Homeland Security Act of 2002, and the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008.

Department of Homeland Security (DHS) officials transfer UAC they apprehend to the care and custody of ORR. An unaccompanied alien child is a person who has no lawful immigration status in the United States and has not attained 18 years of age, and with respect to whom: (1) there is no parent or legal guardian in the United States; or (2) no parent or legal guardian in the United States is available to provide care and physical custody.¹ ORR promptly places an unaccompanied alien child in the least restrictive setting that is in the best interest of the child, taking into consideration danger to self, danger to the community, and risk of flight.² ORR takes into consideration the unique nature of each child's situation and incorporates child welfare principles when making placement, clinical, case management, and release decisions.³ DHS must refer UAC to HHS within 72 hours of making the UAC determination, except in the case of exceptional circumstances.⁴

On April 6, 2018, DOJ announced a zero-tolerance policy for criminal illegal entry, which affected parents crossing the border illegally with their children.⁵ Attorney General Sessions notified all U.S. Attorney's Offices along the southwest border of the "zero-tolerance policy" (ZTP) for offenses under 8 U.S.C. § 1325(a), which prohibits both attempted illegal entry and illegal entry into the United States by an alien.⁶ Persons who applied to enter the United States through a Port of Entry were not charged with offenses under 8 U.S.C. § 1325(a).

Pursuant to the ZTP, DHS officers referred the parent(s) of purported family units to the Department of Justice for prosecution for unauthorized entry into the United States. DHS then transferred the children as "unaccompanied alien children" to HHS because their parents were not available to provide them care and physical custody.

On June 20, 2018, President Trump issued an Executive Order directing the Secretary of Homeland Security to maintain custody of alien families during the pendency of any criminal improper entry or immigration proceedings involving their members unless there was a concern

¹ 6 U.S.C. § 279 (g)(2).

² 8 U.S.C. § 1232(c)(2).

³ ORR Guide: Children Entering the United States Unaccompanied (UAC Policy Guide) Section 1.2.1 (2018).

⁴ 8 U.S.C. § 1232(b)(3). A UAC determination may be made at or after the time of apprehension by DHS, depending on the facts and circumstances.

⁵ Department of Justice, Office of Public Affairs, April 6, 2018.

⁶ *Id.*

that detention of the alien child with the child's alien parent would pose a risk to the child's welfare.⁷ The order indicated that the parent(s) and children would no longer be separated.

In *Ms. L. v U.S. Immigration and Customs Enforcement*⁸, Judge Dana Sabraw of the United States District Court for the Southern District of California ordered the federal government to safely reunify class members (certain separated parents) with their children. HHS had custody of the separated children, thus the agency took a leading role in creating an interagency plan for reunification of the separated children with their parents.

Congress included the language below in the Department of Health and Human Services Appropriations Act, 2019 (the "Appropriations Act"):

"SEC. 233. The Secretary shall submit to the Congress by November 15, 2018, a plan to promptly facilitate the reunification of children separated from their parents and placed in the custody of the Office of Refugee Resettlement ("ORR"), including the reunification of children with parents who are no longer in the United States:

Provided, That such plan shall include possible children of potential class members in the class-action lawsuit *Ms. L v. ICE*, as identified in the Joint Status Report filed on September 6, 2018:

Provided further, That such plan shall describe the activities the Administration has undertaken to locate parents who are no longer in the United States and to reunify those parents with their children, including (1) the process for tracking children and parents, (2) the process for coordinating interagency responsibilities for communication, location, and reunification of such parents, and (3) the number of parents that the Administration has been unable to contact:

Provided further, That such plan shall provide detailed information on how many parents have been determined to be ineligible for reunification and the reasons for those determinations:

Provided further, That such plan shall identify the number of children in ORR custody whose parents were deported that (1) have been reunified with their parents, (2) have been released into the custody of a family member other than a parent, (3) have been released into the custody of a sponsor who is not a family member, and (4) are still in ORR custody:

Provided further, That such plan shall provide detailed information regarding the procedures the Administration follows when child sexual abuse is alleged at facilities operated by ORR contractors:

Provided further, That such plan shall include an estimate of expenditures in fiscal year

⁷ Exec. Order No. 13841, "Affording Congress an Opportunity to Address Family Separation", 83 Fed. Reg. 29435-29436 (June 20, 2018).

⁸ *Ms. L. v U.S. Immigration and Customs Enforcement*, Case 3:18-cv-00428 (S.D. Cal. 2018).

2018 and an estimate of anticipated expenditures in fiscal year 2019 related to housing children who were separated from their parents at the border as well as activities to reunify such children with their parents:

Provided further, That if such plan is not submitted by the deadline identified above, the Department of Health and Human Services may not, until such a plan has been submitted to the Congress, obligate funds from the Fund established by section 223 of title II of division G of Public Law 110–161, except to obligate H. R. 6157—117 funds for projects identified in the joint explanatory statement accompanying this Act.”⁹

ORR’s ORDINARY UAC PROCESS

To provide appropriate context for the information presented in this report, it is necessary to explain ORR’s ordinary process for tracking UAC from intake through discharge—that is, how ORR brings UAC into its care, creates and maintains records on UAC in an electronic tracking and case management system known as the UAC Portal, and discharges UAC to sponsors.

The U.S. Border Patrol (USBP) and U.S. Immigration Customs Enforcement (ICE) are responsible for the majority of UAC referrals to ORR. USBP’s E3 system of record database is able to push UAC biographic, apprehension, and, other referral information into ORR’s UAC Portal’s referral page. ICE has access to ORR’s UAC Portal referral page and directly enters UAC information into the system. In the summer of 2018, a checkbox was added to the UAC Portal’s referral page to indicate whether a child has been separated from family. The referral page also has a notes section where USBP and ICE can type in the name and other information of the separated family member, including their alien number. Additionally USBP and ICE can enter this information into the parent/relative information section of the referral.

When ORR receives a child that another federal agency has referred to its care, ORR performs several different assessments. These include:

- The UAC Assessment, which covers biographic, family, legal/migration, medical, substance abuse, and mental health history
- A trafficking assessment, which is part of the UAC Assessment and identifies whether a child has been trafficked
- An educational assessment, which determines academic level
- A medical assessment, which occurs within 48 hours of arrival in the ORR care provider facility
- The Assessment for Risk, which occurs within 72 hours of admission and every 30 days thereafter to reduce the risk that a child is sexually abused or abuses someone else in ORR care
- The UAC Case Review, which updates the child’s file initially on the child’s 30th day in care and subsequently every 30 days (or 90 days for children in long-term foster care)

⁹ “Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019,” Pub. L. No. 115-245, div. B, title II, sec. 233.

Intakes policies are located at section 1 and 3 of the ORR policy guide, located at <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>.

As ORR completes these assessments, grantee staff enter the alien registration number, name, biographical information and several assessments of the UAC into the UAC Portal. Case managers throughout the UAC grantee network use this system to create a complete case file for each child.¹⁰ Case managers enter case reviews into the UAC Portal every 30 days.¹¹ The Sponsor Information section is updated when new information becomes available.¹² When ORR releases a child to a sponsor, the sponsor must give ORR documentation of the address where the child will be living.¹³ At the time of physical release to a sponsor, ORR's legal obligations toward the child end.

Although ORR is not legally obligated to do so, thirty days after release to a sponsor, the ORR Call Center contacts the sponsor to ask questions as to the safety and well-being of the discharged child.¹⁴ The ORR Call Center is a contracted provider. After the 30-day well-being and safety call, ORR retains the record of the child but adds no additional information unless the child returns to ORR custody via a new referral from a Federal agency, which is rare.¹⁵

ORR policies on tracking children as they progress towards discharge appear in sections 2 and 3 of the UAC Policy Guide: <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>.

REUNIFICATION PLANS FOR SEPARATED CHILDREN

The language in the Appropriations Act on the reunification plans for separated children is as follows:

The Secretary shall submit to the Congress by November 15, 2018, a plan to promptly facilitate the reunification of children separated from their parents and placed in the custody of the Office of Refugee Resettlement ("ORR"), including the reunification of children with parents who are no longer in the United States:

Provided, that such plan shall include possible children of potential class members in the class-action lawsuit *Ms. L v. ICE*, as identified in the Joint Status Report filed on September 6, 2018:

Provided further, that such plan shall describe the activities the Administration has undertaken to locate parents who are no longer in the United States and to reunify those parents with their children, including (1) the process for tracking children and parents, (2) the process for coordinating interagency responsibilities for communication, location, and

¹⁰ UAC Manual of Procedures (2017), Section 1.3, Referrals to ORR and Initial Placements.

¹¹ UAC Policy Guide (2018), Section 3.3.1, UAC Assessments and Case Review.

¹² UAC Policy Guide (2018), Section 2.2.2, Contacting Potential Sponsors.

¹³ UAC Policy Guide (2018), Section 2.2.4, Required Documents for Submission with the Application for Release.

¹⁴ UAC Policy Guide (2018), Section 2.8.4, Safety and Wellbeing Follow Up Call.

¹⁵ UAC Policy Guide (2018), Section 2.8.3, Closing the Case File.

reunification of such parents, and (3) the number of parents that the Administration has been unable to contact.

HHS and its interagency partners are executing plans, approved by Judge Dana Sabraw in *Ms. L.*, for reunification of separated minors with their parents, which provide the information requested by Congress. These plans filed in *Ms. L.* are identified below and attached hereto:

- HHS/DHS Unified Plan of Operations For Reunification of 5-17 Year Old Population To Include Flow Chart and Summary of Required Steps, 14 July 2018.¹⁶
- Interagency Plan for Reunification of Separated Minors with Removed Parents, August 16, 2018.¹⁷

As of November 6, 2018, there were zero departed *Ms. L.* class members who the Administration had been unable to contact.¹⁸

STATISTICS

The Appropriations Act requests statistics related to separated parents and children in *Ms. L.* Specifically, it states:

Provided further, that such plan shall provide detailed information on how many parents have been determined to be ineligible for reunification and the reasons for those determinations:

Provided further, that such plan shall identify the number of children in ORR custody whose parents were deported that

- (1) have been reunified with their parents,
- (2) have been released into the custody of a family member other than a parent,
- (3) have been released into the custody of a sponsor who is not a family member, and
- (4) are still in ORR custody.

As of November 6, 2018, there were 30 children in *Ms. L.* whose parents are ineligible for reunification because the parent was determined to be unfit or present a danger to the child, based on the parent's criminal history or other individualized factual considerations bearing on fitness or dangerousness. As of November 6, 2018, 23 of these children remained in ORR custody.¹⁹

¹⁶ July 15, 2018 Notice, *Ms. L. v U.S. Immigration and Customs Enforcement*, No. 3:18-cv-00428 (S.D. Cal. 2018), ECF No. 109, 109-1.

¹⁷ August 16, 2018 Notice Regarding Implementation of Plan for Reunifications Abroad, *Ms. L. v U.S. Immigration and Customs Enforcement*, Case No. 3:18-cv-00428 (S.D. Cal. 2018), ECF No. 189.

¹⁸ See November 8, 2018 Joint Status Report, *Ms. L. v U.S. Immigration and Customs Enforcement*, Case No. 3:18-cv-00428 (S.D. Cal. 2018) (attached).

¹⁹ *Id.*

As of November 6, 2018, there were 117 children in ORR care with parents who were Ms. L. class members presently departed from the United States. The parents of 99 of the 117 children waived reunification through the ACLU. In contrast, the parents of only 7 of the 117 children chose reunification in their country of origin through the ACLU. ORR was still waiting for the ACLU to communicate parental intent for 11 of the 117 children. Because the 117 children were “in ORR custody” as of November 6, 2018, none of them were reunified with a parent, released to a family member other than a parent, or released to a sponsor who is not a family member.²⁰

The data reporting to the *Ms. L.* court has not included cumulative reporting of discharges of possible children of potential class members who are presently departed from the United States, separate from other data points. Nevertheless, as of November 6, 2018, ORR had discharged 411 possible children of potential *Ms. L.* class members who were presently departed from the United States. One hundred and sixty of the 411 children were reunified with a parent. Eighty-seven of the 411 children were discharged to a Category 2 sponsor, meaning an immediate relative, such as a brother, sister, aunt, uncle, grandparent, or first cousin. Thirty-four of the 411 children were discharged to a Category 3 sponsor, meaning a distant relative or an unrelated adult individual.

ORR POLICY FOR SEXUAL ABUSE ALLEGATIONS

The language in the Appropriations Act on sexual abuse is as follows:

Provided further, that such plan shall provide detailed information regarding the procedures the Administration follows when child sexual abuse is alleged at facilities operated by ORR contractors.

ORR has a zero-tolerance policy for all forms of sexual abuse and sexual harassment in all of its care provider facilities.²¹ Care providers must report sexual abuse, sexual harassment, or inappropriate sexual behavior that occur in ORR-funded programs caring for children immediately but no later than four hours after learning of the allegation.²² Care providers report this information via a sexual abuse significant incident report (SIR). For purposes of a SIR, sexual abuse can include a wide range of allegations, and care providers are trained to over-report out of an abundance of caution.

Care providers report to the U.S. Department of Justice’s Federal Bureau of Investigation and the HHS’ Office of the Inspector General any allegations of sexual abuse that are subject to federal reporting laws or could constitute violations of federal law. Sexual abuse is defined at 34 U.S.C. § 20341 and in ORR regulations at 45 C.F.R. § 411.6.

Care providers also must follow state licensing requirements to report allegations of sexual harassment and inappropriate sexual behavior. Care providers report allegations of sexual abuse to ORR, child protective services (CPS), and the state licensing agency. In the case of a sexual

²⁰ *Id.*

²¹ UAC Policy Guide (2018), Section 4.1.1, Sexual Abuse.

²² UAC Policy Guide (2018), Section 4.10.2, Care Provider Reporting Requirements.

abuse allegation involving minors, CPS or state licensing may cross-report to local law enforcement. If an allegation involves an adult, the care provider must independently notify local law enforcement.

If a sexual abuse allegation involves a staff member, the care provider is required by regulation to suspend the staff member from all duties that would provide the staff member with access to UAC pending investigation.

ORR policies on sexual abuse and harassment appear on-line in the ORR Policy Guide at section 4: <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>. ORR also published an interim final rule on the “Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children.”²³

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The language in the Appropriations Act for financial information is as follows:

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The estimates of expenditures in FY 2018 and FY 2019 related to the care and reunification (or other appropriate discharge) of possible children of potential *Ms. L.* class members is below. The estimates are based on 2,667 minors identified as possible children of potential *Ms. L.* class members. ORR estimates the shelter costs, including clothing, education, recreation, and food at \$58,800,000. The estimated DNA screening costs are \$1,400,000.²⁴ The estimated medical services are \$2,670,000. The estimated legal services are \$4,010,000. The estimated case management and program support costs are \$13,470,000.²⁵ As of November 1, 2018, the total estimated cost is \$80,350,000, or four percent of the total amount of funds obligated for the UAC program in FY 2018. This cost is only a small part of total UAC costs in FY 2018. The costs incurred are ongoing as separated children remain in ORR custody.

| Number of Children | Average Days in ORR Care - per child | Estimated Shelter Costs - including Education and Food | Estimated DNA Screening | Estimated Medical Services | Estimated Legal Services | Case Management and Program Support | Total Estimated Cost |
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²³ 45 CFR Part 411.

²⁴ DNA testing is utilized to verify parentage for children and parents where authenticated documents (such as birth certificates) are unavailable.

²⁵ This includes funding ORR reimbursed HHS/ASPR: \$3,500,000 for assistance in reunification costs; transportation costs to reunification sites; and costs incurred by grantees and contractors.

CONCLUSION

HHS and its interagency partners created reunification plans to meet the orders issued by the court in *Ms. L*. The plans continue to be executed to finish any remaining reunifications of *Ms. L* class members. As of November 6, 2018, there were only 25 possible children of potential class members in ORR care who had not been reunified with their parents. Those 25 children do not overlap with any of the 99 children in ORR care with a parent presently departed from the United States whose intent not to reunify was confirmed by the ACLU. Nor do they overlap with any of the 17 children in ORR care with a parent in the United States who has indicated an intent not to reunify. When a parent indicates an intent not to reunify, ORR discharges the child to a sponsor pursuant to its ordinary TVPRA processes (which generally involve further vetting and may take longer to complete than a reunification under the *Ms. L*. court's orders).

As of November 6, 2018, more than 92 percent of the possible children of potential class members in *Ms. L*. have been reunified or otherwise appropriately discharged.

Wilcox, Kelly (HHS/ASFR)

From: Cochran, Norris (HHS/ASFR)
Sent: Thursday, February 14, 2019 9:31 AM
To: Wilcox, Kelly (HHS/ASFR)
Subject: FW: Congressional: Due Date 7/17/2018: UAC weekly phone call 7/13 Get Backs

From: Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>
Sent: Thursday, July 19, 2018 4:13 PM
To: Zuco, Paola (OS/ASFR) <Paola.Zuco@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>
Subject: RE: Congressional: Due Date 7/17/2018: UAC weekly phone call 7/13 Get Backs

This looks (b)(5) The only change I would recommend (b)(5)

From: Zuco, Paola (OS/ASFR)
Sent: Thursday, July 19, 2018 3:39 PM
To: Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>
Subject: FW: Congressional: Due Date 7/17/2018: UAC weekly phone call 7/13 Get Backs
Importance: High

Can you please review below and provide any edits. Hoping to send today.

Thanks!

From: Hayes, Jonathan (ACF)
Sent: Thursday, July 19, 2018 3:35 PM
To: Moughalian, Jen (HHS/ASFR) <Jen.Moughalian@hhs.gov>; Zuco, Paola (OS/ASFR) <Paola.Zuco@hhs.gov>
Cc: Logan, Scott (ACF) <scott.logan@acf.hhs.gov>; Lloyd, Scott (ACF) <Scott.Lloyd@acf.hhs.gov>; Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Wagner, Steven (ACF) <Steven.Wagner@acf.hhs.gov>; Wynne, Maggie (HHS/IOS) <Margaret.Wynne@hhs.gov>
Subject: RE: Congressional: Due Date 7/17/2018: UAC weekly phone call 7/13 Get Backs

Here you go ma'am.

Apologies for the delay. That's on me.

Jonathan

1. Please provide a history of major changes to the requirements for sponsor background checks. Specifically, when was the current requirement that all potential sponsors and other adult members of their households be fingerprinted (we believe this was in the MOA between ORR and ICE). What was the rationale for this expansion in the fingerprint requirement?

(b)(5)

2. Who pays for transit to reunify families separated at the border? Prior to the 100% Prosecution Policy, did ORR ever pay to transport children to sponsors?

(b)(5)

3. Who is paying for the DNA test?

(b)(5)

4. What account is paying for the contractor support for reunification?

(b)(5)

5. Are separated children being reunified with parents in ICE detention? Is it then up to DHS to determine what happens next ie. after 20 days?

(b)(5)

v/r,

Jonathan H. Hayes
Chief of Staff
Office of Refugee Resettlement
Office of the Director
U.S. Department of Health & Human Services
Mary E. Switzer Building, 5th Floor (Room: 5119B)
330 C Street, SW, Washington, D.C. 20201
Voice: (202) 205-8244
Cell: (202) (b)(6)
Jonathan.Hayes@acf.hhs.gov

From: Moughalian, Jen (HHS/ASFR)
Sent: Thursday, July 19, 2018 1:26 PM
To: Hayes, Jonathan (ACF) <Jonathan.Hayes@acf.hhs.gov>; Zuco, Paola (OS/ASFR) <Paola.Zuco@hhs.gov>
Cc: Logan, Scott (ACF) <scott.logan@acf.hhs.gov>; Lloyd, Scott (ACF) <Scott.Lloyd@acf.hhs.gov>; Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Wagner, Steven (ACF) <Steven.Wagner@acf.hhs.gov>; Wynne, Maggie (HHS/IOS) <Margaret.Wynne@hhs.gov>
Subject: RE: Congressional: Due Date 7/17/2018: UAC weekly phone call 7/13 Get Backs

Jonathan ~ I'm sorry to bug during a busy time, but we have our weekly update call with appropriations staff tomorrow morning and we have not responded to a single one of their questions from last week (below). How can I expedite or support a response? Thanks

From: Hayes, Jonathan (ACF)
Sent: Wednesday, July 18, 2018 9:28 AM
To: Moughalian, Jen (HHS/ASFR) <Jen.Moughalian@hhs.gov>; Zuco, Paola (OS/ASFR) <Paola.Zuco@hhs.gov>
Cc: Logan, Scott (ACF) <scott.logan@acf.hhs.gov>; Lloyd, Scott (ACF) <Scott.Lloyd@acf.hhs.gov>; Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Wagner, Steven (ACF) <Steven.Wagner@acf.hhs.gov>
Subject: Re: Congressional: Due Date 7/17/2018: UAC weekly phone call 7/13 Get Backs

Received.

Jonathan H. Hayes
Chief of Staff
Office of Refugee Resettlement
Office of the Director
U.S. Department of Health & Human Services
Jonathan.Hayes@acf.hhs.gov

On: 18 July 2018 09:17,
"Moughalian, Jen (HHS/ASFR)" <Jen.Moughalian@hhs.gov> wrote:

Following up on this request. Understanding, how busy you are, we strive to respond to appropriator TA requests within 48 hours and we are now past that window. When can we expect responses? Thanks

From: Zuco, Paola (OS/ASFR)
Sent: Monday, July 16, 2018 9:01 AM
To: Hayes, Jonathan (ACF) <Jonathan.Hayes@acf.hhs.gov>
Cc: Logan, Scott (ACF) <scott.logan@acf.hhs.gov>; Lloyd, Scott (ACF) <Scott.Lloyd@acf.hhs.gov>; Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Moughalian, Jen (HHS/ASFR) <Jen.Moughalian@hhs.gov>
Subject: Congressional: Due Dare 7/17/2018: UAC weekly phone call 7/13 Get Backs

Good morning!

Can you please assist with the following inquiry from the Hill?

Thanks!

- Can you please provide court orders, including information regarding home study and background checks?
- Please provide a history of major changes to the requirements for sponsor background checks. Specifically, when was the current requirement that all potential sponsors and other adult members of their households be fingerprinted (we believe this was in the MOA between ORRA and ICE). What was the rationale for this expansion in the fingerprint requirement?
- Who pays for transit to reunify families separated at the border? Prior to the 100% Prosecution Policy, did ORR ever pay to transport children to sponsors?
- Who is paying for the DNA test?
- What account is paying for the contractor support for reunification?
- Are separated children being reunified with parents in ICE detention? Is it then up to DHS to determine what happens next ie after 20 days?

Paola Zuco

Executive Officer
Office of the Assistant Secretary for Financial Resources
Department of Health and Human Services
200 Independence Avenue, S.W.
Room 510G.03
Washington, DC 20201
Phone: (202) 690-6401
Cell: (202) (b)(6)

Wilcox, Kelly (HHS/ASFR)

From: Cochran, Norris (HHS/ASFR)
Sent: Thursday, February 14, 2019 9:31 AM
To: Wilcox, Kelly (HHS/ASFR)
Subject: FW: FOR REVIEW BY 1 PM TODAY: Revised Draft re: UAC Placement
Attachments: 071618 1215PM UAC Reply Update - DRAFT.DOCX; 71618 UAC Reply Update redline.docx

Importance: High

From: Wright, Natasha (OS/IOS) <Natasha.Wright2@hhs.gov>

Sent: Tuesday, July 17, 2018 10:11 AM

To: Charrow, Robert (HHS/OGC) <Robert.Charrow@hhs.gov>; Stecker, Judy (OS/ASPA) <Judy.Stecker@hhs.gov>; Kadlec, Robert (OS/ASPR/IO) <Robert.Kadlec@hhs.gov>; Meekins, Chris (OS/ASPR/IO) <Christopher.Meekins@hhs.gov>; Wynne, Maggie (HHS/IOS) <Margaret.Wynne@hhs.gov>; Lloyd, Scott (ACF) <Scott.Lloyd@acf.hhs.gov>; Wagner, Steven (ACF) <Steven.Wagner@acf.hhs.gov>; Moughalian, Jen (HHS/ASFR) <Jen.Moughalian@hhs.gov>; Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Phillips, Sally (HHS/ASPR/OPP) <Sally.Phillips@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Hayes, Jonathan (ACF) <Jonathan.Hayes@acf.hhs.gov>; Stimson, Brian (HHS/OGC) <Brian.Stimson@hhs.gov>; Kalavritinos, Jack (OS/IEA) <John.Kalavritinos@hhs.gov>; Murphy, Ryan (OS/ASPA) <Ryan.Murphy1@hhs.gov>; White, Jonathan (OS/ASPR/OPP) <Jonathan.White@hhs.gov>

Cc: Agnew, Ann (HHS/IOS) <Ann.Agnew@hhs.gov>; Morse, Sara (HHS/ASL) <Sara.Morse@hhs.gov>; Bassett, Matthew (HHS/ASL) <Matthew.Bassett@hhs.gov>; Caliguiri, Laura (HHS/IOS) <Laura.Caliguiri@hhs.gov>; Kalavritinos, Jack (OS/IEA) <John.Kalavritinos@hhs.gov>; Mansdoerfer, David (HHS/OASH) <David.Mansdoerfer@hhs.gov>; OS OGC-IO ControlDesk (HHS) <ControlDesk.OCGIO@hhs.gov>; Grove, Matthew R. (HHS/OS) <Matthew.Grove@HHS.GOV>; Robinson, Wilma (HHS/IOS) <Wilma.Robinson@hhs.gov>; Arbes, Sarah (HHS/ASL) <Sarah.Arbes@hhs.gov>

Subject: FOR REVIEW BY 1 PM TODAY: Revised Draft re: UAC Placement

Importance: High

Good Morning:

Attached for your review is the revised draft letter (redline and clean versions) to go out under the Dep Sec's signature regarding the safety and placement of children in ORR care.

Please provide only showstopper comments/edits on the CLEAN version of the draft response to me and Sarah Arbes, cc'd, by 1 PM today, Tuesday, June 17, 2018.

Thank you,
Natasha

Natasha Wright, MA, MPH | Policy Coordinator
Executive Secretariat | Immediate Office of the Secretary

U.S. Department of Health and Human Services (HHS)
o. (202)260.7513 | Natasha.wright2@hhs.gov

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Wilcox, Kelly (HHS/ASFR)

From: Cochran, Norris (HHS/ASFR)
Sent: Thursday, February 14, 2019 9:31 AM
To: Wilcox, Kelly (HHS/ASFR)
Subject: FW: For review by 11 AM: updated public plan for reunification
Attachments: 7 15 18 plan draft.docx

From: Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Sent: Monday, July 16, 2018 10:21 AM
To: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>
Subject: FW: For review by 11 AM: updated public plan for reunification

(b)(5)

From: Moughalian, Jen (HHS/ASFR)
Sent: Monday, July 16, 2018 10:18 AM
To: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>
Cc: Zuco, Paola (OS/ASFR) <Paola.Zuco@hhs.gov>
Subject: FW: For review by 11 AM: updated public plan for reunification

For your review and comment. thx

From: Brennan, Patrick (OS/ASPA)
Sent: Monday, July 16, 2018 7:08 AM
To: OS_ASPA_UAC Tier 1 <OS_ASPA_UAC-Tier1@hhs.gov>
Subject: For review by 11 AM: updated public plan for reunification

Hi all,

Attached is a somewhat updated version of the public document we'd like to publish with DHS and DOJ laying out the reunification process. This should reflect the updates in the latest court filing.

Please let me know if you have edits by 11 AM. Thank you!

Best,
Patrick

Patrick Brennan
Department of Health and Human Services
Office: 202-205-2819 | Cell: (b)(6)

Predecisional/deliberative communication

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Wilcox, Kelly (HHS/ASFR)

From: Cochran, Norris (HHS/ASFR)
Sent: Thursday, February 14, 2019 9:31 AM
To: Wilcox, Kelly (HHS/ASFR)
Subject: FW: For review by 11 AM: updated public plan for reunification
Attachments: 7 15 18 plan draft.docx

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Sent: Monday, July 16, 2018 10:18 AM
To: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>
Cc: Zuco, Paola (OS/ASFR) <Paola.Zuco@hhs.gov>
Subject: FW: For review by 11 AM: updated public plan for reunification

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Sent: Monday, July 16, 2018 7:08 AM
To: OS_ASPA_UAC Tier 1 <OS_ASPA_UAC-Tier1@hhs.gov>
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Please let me know if you have edits by 11 AM. Thank you!

Best,
Patrick

Patrick Brennan
Department of Health and Human Services
Office: 202-205-2819 | Cell: (b)(6)

Predecisional/deliberative communication

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Wilcox, Kelly (HHS/ASFR)

From: Cochran, Norris (HHS/ASFR)
Sent: Thursday, February 14, 2019 9:31 AM
To: Wilcox, Kelly (HHS/ASFR)
Subject: FW: FYA: UAC Questions (OMB)/Answers(ASPR)

From: Petzinger, Stephen (OS/ASFR) <Stephen.Petzinger@hhs.gov>
Sent: Thursday, July 12, 2018 9:31 AM
To: Moughalian, Jen (HHS/ASFR) <Jen.Moughalian@hhs.gov>
Cc: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Cabezas, Miriam (HHS/ASFR) <Miriam.Cabezas@hhs.gov>; Goyle, Suraj (OS/ASFR) <Suraj.Goyle@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Subject: RE: FYA: UAC Questions (OMB)/Answers(ASPR)

Will do – thanks Jen

From: Moughalian, Jen (HHS/ASFR)
Sent: Thursday, July 12, 2018 9:30 AM
To: Petzinger, Stephen (OS/ASFR) <Stephen.Petzinger@hhs.gov>
Cc: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Cabezas, Miriam (HHS/ASFR) <Miriam.Cabezas@hhs.gov>; Goyle, Suraj (OS/ASFR) <Suraj.Goyle@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Subject: RE: FYA: UAC Questions (OMB)/Answers(ASPR)

Thanks. I suggest (b)(5)

From: Petzinger, Stephen (OS/ASFR)
Sent: Wednesday, July 11, 2018 4:40 PM
To: Moughalian, Jen (HHS/ASFR) <Jen.Moughalian@hhs.gov>
Cc: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Cabezas, Miriam (HHS/ASFR) <Miriam.Cabezas@hhs.gov>; Goyle, Suraj (OS/ASFR) <Suraj.Goyle@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Subject: Re: FYA: UAC Questions (OMB)/Answers(ASPR)

Hi Jen,

We checked with Ron Miller, acting director of NDMS, and as of today he said (b)(5)

(b)(5)

Thanks
SP

On: 11 July 2018 15:59,
"Moughalian, Jen (HHS/ASFR)" <Jen.Moughalian@hhs.gov> wrote:

Thanks Steve. Chris told me they are planning to do (b)(5)

Were you aware of that?

From: Petzinger, Stephen (OS/ASFR)
Sent: Wednesday, July 11, 2018 1:38 PM
To: Moughalian, Jen (HHS/ASFR) <Jen.Moughalian@hhs.gov>
Cc: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Cabezas, Miriam (HHS/ASFR) <Miriam.Cabezas@hhs.gov>; Goyle, Suraj (OS/ASFR) <Suraj.Goyle@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Subject: FYA: UAC Questions (OMB)/Answers(ASPR)

Hi Jen,

For your awareness, we received questions from OMB about ASPR's role in the current UAC situation. We were able to get answers back from ASPR immediately and plan to send to OMB. Please let me know if you have any questions/concerns.

Thank you,
Steve

1. **Under what authority has the Secretary activated NDMS and does the activation have a time and/or activity limit?**

(b)(5)

Has the activation of NDMS included the Federalization of civilian personnel?

(b)(5)

2. **What types of activities NDMS personnel teams conducting and what types of personnel have be activated (clinicians, administrative personnel, etc.)?**

(b)(5)

3. **Has ASPR's appropriation been used for reunification and other UAC-related activities, other than for ASPR staff S&E? If so, how much and for what purposes (e.g., NDMS)?**

(b)(5)

4. **What is the nature of the ASPR's reimbursable agreements with ACF, ICE, or other agencies?**

(b)(5)

Stephen Petzinger
U.S. Department of Health and Human Services
Office of the Secretary | ASFR | Office of Budget
(202) 690-7688

Wilcox, Kelly (HHS/ASFR)

From: Burbank, Nick (HHS/ASFR)
Sent: Thursday, February 14, 2019 11:15 AM
To: Burbank, Nick (HHS/ASFR)
Subject: FW: ICYMI: Secretary Azar on America's Newsroom, Press Briefing Transcript
Attachments: Resources Actions Being Taken Briefing Transcript .pdf

From: Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Sent: Friday, July 6, 2018 1:26 PM
To: Powell, Natalie (OS/ASFR) <Natalie.Powell@hhs.gov>; Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>
Subject: FW: ICYMI: Secretary Azar on America's Newsroom, Press Briefing Transcript

FYI Please do not forward or share. Can we save this on the G-drive?

From: Cochran, Norris (HHS/ASFR)
Sent: Friday, July 06, 2018 1:25 PM
To: Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Subject: FW: ICYMI: Secretary Azar on America's Newsroom, Press Briefing Transcript

From: Moughalian, Jen (HHS/ASFR)
Sent: Friday, July 06, 2018 12:18 PM
To: [Catie Finley@appro.senate.gov](mailto:Catie_Finley@appro.senate.gov); Gentile, Mike (Appropriations) <Mike_Gentile@appro.senate.gov>; Robin.Juliano@mail.house.gov; Salmon, Kathryn <Kathryn.Salmon@mail.house.gov>; Friedel, Laura (Appropriations) <Laura_Friedel@appro.senate.gov>; Ross, Susan <Susan.Ross@mail.house.gov>; Alex_keenan@appro.senate.gov; Stephen.Steigleder@mail.house.gov
Cc: Zuco, Paola (OS/ASFR) <Paola.Zuco@hhs.gov>; Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>
Subject: ICYMI: Secretary Azar on America's Newsroom, Press Briefing Transcript

Yesterday, Secretary of Health and Human Services Alex Azar appeared on *America's Newsroom* to discuss HHS' actions on reunification of unaccompanied alien children (UAC) with appropriate sponsors. Click [here](#) to watch.

Later, Secretary Azar held an on the record call with subject matter experts to brief the media on actions the Department has been taking to care for UAC in parallel with the recent court order regarding reunification. Please find the transcript of the call attached.

ASPA has shared the following quote for reporting attributable to an HHS Spokesperson:

The previous number of 2053 minors in our care focused on the children separated as part of the zero tolerance policy. After we released the 2053 number, a court order was issued which says we need to reunite all separated children in our care, not just those transferred to ORR since that policy was implemented on May 6, 2018. In order to comply with this order, Secretary Azar ordered a hand audit of the records of every single child in our care and asked that any record that even might have indicated that a separation may have occurred be flagged for extra scrutiny. That is happening as expeditiously as possible now.

Unlike the parameters of the previous data set that led to our 2053 number, this is a data set that covers a larger population and a greater date range than previously discussed. It is not limited to those who were separated at the border by DHS on or after May 6, 2018, but includes those who were separated at the border before May 6 and those who may have been, but not necessarily were, separated at the border by DHS. The "less than 3000" mentioned on today's call simply represents the upper bound of the number of children in the revised data set who may possibly have been separated at any time and who are in ORR care. These data sets are now being cross checked and reconciled with data from CBP, ICE, ORR's grantees, and UAC case files to determine every child who may be in the class. Additionally, because of the disparate data sets, ORR staff is also talking to every case manager of any child where there may be a question as to whether the child was separated from a parent or someone else.

For additional FAQs, a photo gallery, and more information on HHS actions please click [here](#).

U.S. Department of Health and Human Services
Office of the Assistant Secretary for Public Affairs

For Immediate Release

Thursday, July 5, 2018

BRIEFING FROM HHS SECRETARY AZAR OUTLINING RESOURCES AND ACTIONS BEING
TAKEN REGARDING UNACCOMPANIED MINORS IN HHS CARE

THURSDAY, JULY 5, 2018

11:24 A.M. EDT

MR. MURPHY: Thank you and good morning everyone. And thank you for joining the call. Yes, my name is Ryan Murphy. I'm the Principal Deputy Assistant Secretary for Public Affairs here at HHS.

Before getting started, just real quick. The information on this call is embargoed until the conclusion of the call.

This morning we have Secretary of Health and Human Services, Alex Azar, to provide an on-the-record briefing. Also with the Secretary are subject matter experts Commander Jonathan White, Dr. Bob Kadlec our Assistant Secretary for Preparedness and Response, Mr. Chris Meekins, Chief of Staff in ASPR, and Scott Lloyd, Director of The Office of Refugee Resettlement.

The Secretary will brief you all on actions the Department has been taking to care for unaccompanied alien children in parallel with the recent court order regarding reunification.

At the conclusion of the Secretary's updates, Secretary Azar will be available for a question and answer session. We ask that you keep all questions related to the topic of today's call.

And please, if you would, out of respect for your colleagues, keep it to one question per person so that we can have time to answer as many questions as possible. With that I will turn it over to Secretary Azar.

SECRETARY AZAR: Good morning everybody. Thank you very much for joining us today. I wanted to provide you with a bit of an opening to just level set with some background on the program. Our actions, what we're doing, where we've been. And then we'll be happy to take some questions.

So first, HHS knows the identity and location of every minor in the care of our grantees. And HHS is executing on our mission, even with the constraints handed down by the courts.

We are meeting the needs of unaccompanied alien children that are in our custody and in the care of the HHS Office of Refugee Resettlement Grantees.

I held a call last hour with representatives from our grantees. And I had the opportunity to first and foremost thank them for the excellent work that they're doing each and every day in caring for the minors in their shelters and facilities.

They're providing excellent care in a safe, supervised environment with access to education, athletics, and entertainment as well as, medical, mental health, dental, and vision care.

The mission of ORR and the Unaccompanied Children program is to place the minors in our custody as expeditiously as possible with a parent, close relative, legal guardian, or other sponsor that has been vetted to ensure that they can provide a suitable environment for the minor.

Any parent or close relative wishing to locate or to communicate with a child in an ORR funded facility can do so by calling or emailing the ORR National Call Center.

Currently, we face an evolving situation that is partly borne out of years of Congressional failures to fix our immigration system. But also by courts stepping in to apply their own interpretations which are in conflict with one another.

While I know there has been talk of confusion, again any confusion is due to a broken immigration system and court orders, it's not here. We know our mission, we know our tasks, and we're executing on it.

We're working to challenge, step by step, within the restraints placed on us by conflicting court orders and this fundamentally broken immigration system.

Part of that work, under the court order, is expediting the reunification of minors with their parents. That's why HHS deployed additional assets into the field to supplement the great work being done by our grantees.

We have a plan in place to get this job done while maintaining the safety of the children in our care. HHS has deployed more than 230 personnel; 130 from ORR; the Office of the Assistant Secretary for Preparedness and Response, what I will refer to as ASPR; the national Disaster Medical System; and the U.S. Public Health Service Commission Corps, to improve existing efforts to connect parents in the custody of the Department of Homeland Security with minors who are in HHS ORR custody.

U.S. Public Health Service Commission Corps personnel and other resource staff, to assist parents in communicating with their children, and complete reunification packages.

We've also added 100 additional case managers to supplement as needed, case managers at our grantee facilities.

When we activated the Office of the Assistant Secretary for Preparedness and Response to handle specialized logistics and operational efforts, I gave ASPR the following three directives.

First, generate accurate information regarding separation status of each minor to assure to the fullest extent possible that children know the location of their parents and parents know the location of their children.

Second, ensure that parents and children are in communication with each other at least twice a week when possible.

Third, work to place the minor children in ORR funded facilities back with parents or with other appropriate related sponsors as safely and expeditiously as possible.

In many ways we've had to adapt the systems that we've had to meet new demands and new circumstances. ORR's UAC Program was designed to care for minors who enter the country unaccompanied and to place them, as soon as possible, with a vetted sponsor. Usually a parent or other family member. In other words we're in the business of dealing with children who are separated.

Over the last several years we have dealt with hundreds of thousands of separated children. Children sent by their parents to cross illegally into the country, or children who have come here on their own.

Historically, HHS ensured the care of a child in our custody. And then we performed criminal background checks on potential sponsors and other adults in their household. We've ensured appropriate living arrangements. And we've confirmed the sponsor's ability to care for a child.

In light of the recent District Court ruling, new efforts have had to be made to specifically determine whether a child was separated from a parent at the border, and to gather additional information about that purported parent.

The Unaccompanied Alien Children Program was not designed to track the circumstances under which the UAC -- the Unaccompanied Child -- came into our custody, which is why it takes time to reorient the effort to reconcile the different data sets the government has to respond to a new order to reunify minors with their parents.

The District Court ruling offered all minors and parents separated at the border to be reunited within distinct timelines for those under the age of 5 and for those age 5 to 17 years of age. It also applied this order going back indefinitely.

The court's order imposes obligations on us that require that we attempt to determine whether a parent and child were separated at the border by DHS personnel.

Traditionally when they were separated and the location of that separation was not relevant to HHS's mission of caring for the child in our custody. Obviously, the fact that separation occurred is relevant information for the purposes of sponsorship.

The court's order places an emphasis on the when and where rather than on the, whether separation occurred.

I also know there is a lot of interest in numbers. To comply with the District Court order, HHS personnel have reviewed all the case files of every single minor in ORR care to determine if there's any indication that the minor child was separated from a parent at any point on their journey here to the United States.

There are over 11,800 minors in our care. Over 80% of them are teenagers; mostly males who crossed the border on their own.

A review and comprehensive audit of multiple data sets through a joint effort between HHS and DHS has identified under 3000 children in total, including approximately 100 children under the age of 5, in the care of ORR funded grantees who may have been separated from their purported parents, who were taken into DHS custody for having crossed illegally or for other reasons like concerns for the safety of the child.

The broader number of under 3000 is based on the compilation of data from CBP, ICE, and ORR's grantees. And a manual review of each and every one of the 11,800 plus case files and all materials within them.

I myself have participated in the review and analysis of these case files in the ORR portal.

Because of the disparate data sets, ORR staff are talking to every case manager of any child where there may be a question of whether the child was separated from a parent or someone else.

It's important to remember that information from children can at times be unreliable. For example, the Border Patrol may pick up a child crossing the border without a parent. So when conducting an assessment on a child, the child may tell one of ORR's case manager that he or she was traveling with his or her parent.

It's possible for both to be true. The child may have been traveling with a parent but may also have been separated from the parent prior to the child crossing the border and being apprehended by CBP.

In this instance our data may show, at some point that the child was separated, even though the child may not qualify as quote, separated, under the court's order, because the government had nothing to do with separating the child from the parent.

In other instances the child may be listed as having been apprehended with what appeared to be a parent, based on the information provided at the time. But later our case managers, through our processes, learned that it was not a parent but someone else.

So often it could be an aunt, an uncle, an older sibling who at the time of detention appeared to be or was represented to be, a parent but later case management and data work shows that not to be the case.

There are a myriad of scenarios that make it challenging to apply any specific number. Even though we do know -- and I want to be very clear about this -- where every child is. And we know each is being well taken care of.

These situations are why we are conducting and have conducted a thorough auditing and review to ensure that we're able to meet the court's ruling.

HHS is continuing to work overtime to connect minors with verified parents within the constraints applied by the court. We are also doing DNA testing to confirm parentage quickly and accurately.

Consistent with the court's order and subject to the deadline set by the court, all of this work should be done before we reunite a child with a parent.

In order to meet the court's deadlines, HHS has also had to narrow its traditional focus from the comprehensive review for the safety and suitability of sponsors that is based on standard child welfare protection procedures, to a more expedited process.

While reunification with most parents is in the best interest of the child, proper and careful vetting for child safety is essential. For example, in the vetting of parents for children under the age of 5 which the court says must be completed so they can be reunited by Tuesday evening of next week, two purported parents were identified in ICE criminal background checks as having criminal history that were inconsistent with child safety.

For example, these purported parents had a history of charges of child cruelty, rape, and kidnapping based on information revealed by ICE.

We will comply with the artificial deadlines created by the court. Deadlines that were not informed by the process needed to vet parents including confirming parentage, as well as, determining the suitability of placement with that parent.

We will comply even if those deadlines prevent us from conducting our standard or even a truncated vetting process.

We will of course work with the court to inform the court of what we believe to be in the best interest of child welfare, and seek additional time to ensure that we can do the job that we believe is necessary to protect the children in our care.

Once we reunify the children with their parents, they will be in DHS custody. And DHS will be in charge of further proceedings related to the parent and the child.

Because we've got compassion for kids in our care, and an obligation to comply with the law and the order of the court, we've committed tremendous resources to the task at hand.

The team here at HHS is doing everything that can be done in order to protect those kids in our custody while navigating a disjointed and conflicted immigration system that's been the results of years of failed attempts to get to the heart of what drives illegal immigration into this country.

But make no mistake, while the administration calls on Congress to act and fix the problem, while the Justice Department works with the courts, HHS knows it's mission. We're executing on that mission, and we're working to protect the welfare of the children with whom we have been entrusted.

With that I'm happy to take your questions. Thank you very much.

MR. MURPHY: Mr. Secretary. And with that we will open it up for questions.

MICHAEL SHEAR: Hi Mr. Secretary. Thanks for doing this call. I guess the question I have is you've talked a lot about potentially blaming Congress and the courts for the situation.

And while clearly the unaccompanied minors' situation predates even this Administration writ large, I mean how much responsibility does the Administration have for essentially choosing to create the government separations? Not the previous ones but the government separations.

And isn't it - wouldn't it have been better for HHS and ORR and all of these agencies to have been able to plan for this? I mean all of those - you're essentially saying that the courts were, you know, making you do this in an unreasonable amount of time.

If you guys had had the time to plan for this in a careful way before the policy were put in place, wouldn't you all not be in this situation of having to race against the Tuesday deadline?

And Congress also sent you guys a request for information today I guess from the Committee on Oversight, and I guess I wanted to know whether you guys are going to respond to that and meet their deadline for information as well?

SECRETARY AZAR: Great. Hey Michael. Thank you very much for the question, appreciate that. You know, what we're dealing with here is children in - or normal circumstance children who come to the country by themselves. Okay?

So they're put into our custody. Unaccompanied Alien Children Program. This added dimension are parents who are breaking the law. They're coming into the country against the law, not at a legal border crossing.

There is a surefire way to avoid separation from your children, and that is present yourself at a legal border crossing and make the case that you believe you have for coming into this country appropriately. Or stay back at your home country and go through the process others do to seek legal entry into this country.

If you break our laws you come into our country at an illegal border crossing and you are arrested, you do not get to stay with your children normally. I wouldn't get to stay with my children if I were in prison. They don't get to either.

That's the simplest way to avoid this, is to follow our laws, respect our border, come into our country -- or present yourself and make the case to come into the country -- where you want to. None of us want -- the President doesn't want -- none of us want children separated from their parents, okay?

And I want no children in our care and custody. We have this obligation to take care of them. We do a great job taking care of them. But we would rather they be with family members in this country or be back home in their home country with their family members.

In terms of your question about requests from Congress, I have not seen any most recent requests. We'll of course be responsive and transparent to Congress.

We will not, however, let responding get in the way of our core obligation, which right now is complying with the court's deadlines.

Which are extreme. And which require the full dedication of our time and resources to ensure compliance there.

I think the record is clear that we've been transparent. We've had I think over 70 members of Congress -- Senators and staff -- 50 media outlets doing tours of facilities to the point that we had to just ask Congress if they could please put a pause button on that. Because it just is getting in the way of our ability to do the work of child welfare protection.

Confirming parentage and determining suitability for reunification purposes to meet the court's order. That is what we're about here at HHS. Thank you, Michael.

LOUISE RADNOFSKY: Thank you very much. Can you give us any number for how many children -- among the 3000 approximately who were separated from their parents under the Administration's policy and in ORR's care -- have been reunited with a parent or relative since the last -- in the last couple of weeks?

SECRETARY AZAR: So it's important here to understand the work that we are doing and the work that ORR does for unaccompanied children. What do we do? We get kids who are unaccompanied -- for whatever reason -- and that could be that the child came into this country by themselves.

It could be their parents sent them across the border into this country. And it could be that the family came in and the parents were detained and are in judicial proceedings and hence the children are at that point unable to be with the parents and are unaccompanied. What do we do then?

Our mission is -- as expeditiously as possible -- to place those children with related family member sponsors here in the United States if we can do so by validating that relationship and confirming a safe, stable, appropriate environment consistent with child welfare for them to be in. While they remain with us our job is to take great care of them.

The -- that's our task. So any of these kids who have come into our care -- for whatever reason -- that is what we've been working on. So we do have children who have been placed out in sponsorship with related family members.

You may have kids who came across the border with one parent but they had another parent already here, and they may have been placed with that parent. They may have been placed with an aunt, an uncle, an older sibling here in the United States.

We have other children whose parents may have gone through their deportation proceedings and have joined -- and have been reunited with their parent to be removed from the country and sent back to their

country of origin. We - with respect to the court's order of reunifying children in our care with parents who remain in ICE custody, that is a novel proposition.

Let me explain to you why that's novel. Because we've got a court order that requires at DHS after 20 days that you break families apart. That you separate children from families in ICE custody and send them to us. That's one side.

We now have a more recent court order requiring that we send those kids back to DHS and ICE custody indefinitely. Now of course our position is that that more recent order trumps the previous order, but you can see this conflicting court engagement on the micromanagement of child welfare here. And the confusion created by Congress's unwillingness to solve this broken immigration system.

And so -- with the court's order a week ago Tuesday -- the task is to reunify children in ICE custody. To put them back in ICE custody. We will use every minute of time that we have to confirm the parentage of those individuals who are asserting that they are the parents of these children.

And we'll use every minute of that time to confirm that those parents are actually suitable for reunification. And then we will comply with the court's order and reunify them. But that court's order, we're using every bit of time.

We have not sent children into ICE custody yet, pursuant to the court's order. But we'll do so as we approach the court's deadline and under the court's supervision.

KRISTEN BROWN: Hi. I'm hoping you can provide some more detail on these DNA tests. What are the tests that you're doing on them? How are you doing them? And what is happening to the DNA data afterwards?

SECRETARY AZAR: Yes. Let me actually ask if Commander White -- who is with the Assistant Secretary of - for Preparedness and Response -- could provide some greater detail for you in response to your questions about the DNA testing that we're conducting. Commander?

JONATHAN WHITE: Yes. So as those familiar with the UAC program know, one of the risks that children in this program are always exposed to is fraudulent representations of parenthood by people who are looking to exploit these children. Traffickers and others.

And that's an everyday requirement of that program is to confirm that those who purport to be parents actually do have the parental relationship they claim. The most common method used for that under everyday circumstances is to collect documents -- such as birth certificates -- from - for the parents and the children and (ask) the consular authorities of the governments that issued those in the home

country verify that those are indeed authentic. And that they are matched to those individuals.

In cases where documents are unavailable or unverifiable, the backup plan -- that in everyday operations in the program -- is to use DNA testing to confirm biological relationship. Because of the compressed timeframe, the typical process of using documentation is not going to be completed within the timeframe allowed in this case by the court decision for the great majority of these children.

And for this reason the decision has been made to use these faster process of DNA verification to confirm that biological relationship. The same contractor that does DNA tests routinely in the program for -- requirements which is part of the health care system provided to children is doing that.

Each parent's child matched through the records analysis that the Secretary referred to is being matched. So before the contractor can review any DNA they have to have a specific purported parent and a specific child. To be clear, this isn't some vast sprawling data set that we're matching up. A particular purported relationship has to exist before the DNA contractor can validate that.

This process is faster than records, but we still have the process involved in having the contractor send the DNA kits to the site. HHS -- and in some cases DHS -- health care personnel collect those via cheek swab. It is painless and harmless to the child.

It is then transmitted back to the lab with strict chain of custody consistent with industry standards. And that DNA contractor then verifies that there is or isn't a biological relationship. We use other methods if it comes back that there isn't a biological relationship, but this will enable us for the -- for a great number of children to confirm the parental relationship that parents assert.

Again, we expect that the great majority of these parents are exactly who they claim to be. And they're made -- motivated only by an interest in the child. But we have to protect children from people who would prey on them, and that is what we are doing. These DNA results are being used solely for that purpose and no other.

RICARDO ALONSO-ZALDIVAR: Hi. Thank you for taking my question. And it has to do with the numbers. On the 3000 total who were separated from their parents. And about 100 under five.

Now, do those numbers represent the children that are currently in HHS custody? Or do they include some children who have already been sent to families or reunited with a parent? I'm just asking for clarification of that.

SECRETARY AZAR: Great. Thank you Ricardo for the question. So again, the number of separated children -- and that is separated for

parents for any - from any suspected parental relationship in our files or any database on their journey to the United States, so let me be really clear about that.

If -- in reviewing a child's ORR portal -- case management file the child said -- in what would then be what's called a special - a serious incident report -- the child had said to the case manager "I came up here, I was travelling with my father up here". That would be flagged and would be in this data set of at - that said.

Somewhere less than 3000 is the maximum collected information. What we then are doing is narrowing that by working with ICE, CBP data, the child, consular officials, et cetera to get ground truth on the question. Yes, the child may have said they were travelling up here with their father, say. Were they actually detained with someone purporting to be a father? Was that in fact a father?

That is how we get down narrowing, narrowing. But because of the court's order we are starting from the largest potential data set that we have. We don't want to be under-inclusive. We're erring on the side of inclusion until we can rule any connection out. And so those are currently in ORR care, these children.

As Ricardo, your question there. Currently in our care. And then we're working progressively to ensure that we narrow that set. And that's why there is a bit of a range here, because we continue that work of mining the data to ensure that we're collecting everyone.

And remember we previously were working only from May 6 forward. The court's order -- which is what's relevant for me and my department in executing -- goes back indefinitely. It's not about zero tolerance, it is about separation of children from parents in ICE custody, DHS custody.

And so it's a much broader and inclusive set than any number that we would have discussed with you before. Hence the larger number, and hence our comprehensive data sweep and analysis. And why you will see us continue to refine that as we work through all of the different data, work with the children, and work with the case managers.

This is included -- as I said -- a hand review of 11,800 plus case files. But also has involved certifications from the case managers that the ORR grantees under penalty of perjury to identify to us any child that is in their case management care that they have any reason or evidence to believe was separated by a parent at the point of detention. So it's reconciling all of that.

MARIA PENA: Yes. Thank you for doing this call. So Secretary, I'm sorry to go back on this but I'm just really confused about the actual numbers of children that have been, you know, reunited with their parents. You told the Senate Committee that 2047 were still under ORR. So is it accurate to say that since the Senate hearing ORR

has not reunited any of these kids with their parents. And also what happens to the children whose parents were already deported? Thank you.

SECRETARY AZAR: So Maria thank you for that question. So again the numbers that we had at the time of the Senate hearing were before the court order. The court order came down actually that very night, that Tuesday night. All of our attention from that point on has been focused on ensuring that we have information for the court's order which is a broader set irrespective of any type of enforcement policy by the Justice Department and also irrespective of date. And so our job, all of our energy is focused on collecting information and ensuring that we have the complete set of potential class numbers to ensure complete compliance with the court's and timely compliance with the court's order.

There are children who will have been reunited with their parents for the purposes of joint family deportation. There will be children who prior to the court's order will have been placed with related sponsors here in the United States per our normal procedures and frankly our legal obligations. We are required to as expeditiously as possible place children with related appropriate safe sponsors in the United States and to not keep them in our care any longer than necessary.

But what has not happened because this was simply an order unprecedented, a week ago Tuesday is to send children from our ORR facilities to be reunited with their parents in ICE custody and care and to remain there. So that has not happened yet. That will happen only because of the court's order and that will happen in compliance with the court's deadline of 14 days which would be this coming Tuesday evening for children from birth to age four and 30 days which is I believe Thursday the 26th of July for children age 5 through 17.

And as I said we will use the reason you're not seeing sort of a progressive flow of children over to ICE is we use every minute of every day that the court allows us to ensure that we can confirm parentage and that we can confirm the safety and suitability of the relationship before we place children back over there.

To speed this process DHS has relocated the parents and is relocating parents of children from age zero to four who have been identified as associated with them to facilities that are extremely close to the locations where their children are in ORR care so that we can as expeditiously as possible reunite the children with their parents to meet the court's deadline.

If any parent has been deported - your other question Maria. If there has been a parent who was deported prior to say to the court's order without their child, that likely would be a scenario where the parent had actually asked that the child to remain. This is an

important situate thing for you all to remember is the parents do have a choice on any issue of separation and also on deportation context.

The parents can actually ask that their child remain here in the United States in ORR's care or otherwise. And that is quite possible to happen and I would not be surprised if one sees that especially when dealing with any teenage children in our care. That is part of the process that we go through normally also. Thank you.

LISA DESJARDINS: Great. Thank you Mr. Secretary. And just to clarify what you just said. I just want to make sure it sounds, like, you will - the children, the fewer than 3,000 children in your care right now who've been separated you do expect to be able to release them from your care in some way on the court deadline. So that's one. That seems to be what you're saying.

And number two we've seen obviously states are acting about this policy we saw some legal documents in the last two days from parents and some from children in your care. And some of these parents are alleging that their children were returned to them. In one case a year and a half year old covered in lice. The kids had not been showered. Allegations the children have not been able to call their parents which might be part of your process. Can you respond to those pretty serious allegations?

SECRETARY AZAR: Okay thank you Lisa. So first again I want to be really clear. A couple of you have said the word 3,000. I want to be clear it is under 3,000. I want to give you an outer bound - under 3,000. And that is the maximum set. It will not be 3,000. It will not be close to 3,000. It will be under 3,000 as we continue to refine the work of any allegation, any evidence, any suggestion of parent separation to ensure that we're using the broader non-time limited, non-reason, not based on the reason for separation. But any separation that the court has put in its class and instruction.

And yes we will comply with the court's deadlines. We will do as much as possible up until the deadline set by the court to ensure that we've confirmed that these are in fact the parents and to do background checks and to otherwise confirm suitability.

Part of that is deploying that I mention in my opening of over 230 people who are working at ICE facilities in an unprecedented way. Working with the purported parents to get as the commander said DNA swabs so we can get the DNA testing done. But also to assist them in filling out the family reunification packets.

What is that? That is the information that helps the case manager do his or her job in working with the child and other resources and data to determine suitability as well as it can also help with confirming parentage. The information provided there can give rise to suspicion of a fraudulent situation. It could clarify a different form of relationship other than being a parent. And it also

then informs us around suitability for other situations to ensure that the child would be actually cared for by the parent.

So we're doing that to speed that process along. While those individuals are there with the parents or purported parents they also attempt to if the parents have not been able to be in touch with their child they try to facilitate, make that happen. This is an unprecedented situation in the sense of connecting parents and children of course because our children are always, we always work to try to make sure that they're in telephonic or Skype communication with their parents.

If you have parents though who are in ICE detention or especially if they're in bureau prison's detention, that is not always the easiest task just logistically to make that happen. And so if you hear of individuals who've not been able to be in touch or in touch as frequently as they or we certainly would like that is not for want of trying or lack of desire to make that happen. As I told you one of the core priorities we have is to ensure that parents and children are in touch with each other through this process.

We want from HHS here we want these children cared for and we want this to be as compassionate a process as it humanly can be. We want everybody going through it as difficult as it is, as broken as our immigration system is, we still want people to be - we want to treat people as well as humanly possible going through this very difficult situation.

The issue you raised about some state litigation I'm not going to address allegations made by states and sort of the theater politic there. But I will say that it's important to remember that not every picture you see is of a child in an ORR facility. Not every so-called reunification of a child with a parent is from an ORR facility. And that requires you all to dig when somebody makes that allegation to you to dig and check to make sure in fact that's happening.

I was just on television earlier today and behind me on the screen was b roll footage not of children in any facility managed by HHS okay. So that type of - that's just simply incorrect. And allegations get made that are not correct. I'm sure those of you who have been able to visit ORR grantee facilities have seen the care with which these children are treated by our grantees.

These are charities that take their social mission to these children with great, great tenderness and seriousness and it's a very, very important part of our mission here to deliver to these kids as sensitive, as compassionate as safe, protected environment as we humanly can while they're given into our care. And I believe that the team at ORR and the grantees do an exceptional job of that.

MR. MURPHY: We have time for one more question.

RAFAEL SALIDO: Thank you very much Mr. Secretary for doing this. My question is well I'll tell you yes it happened before with DACA and now it's happening with this case. This current administration seems to create chaos in a way that afterward that blackmails the Democrats to pass some legislation accepting the plans for the wall. How is it possible that if think this is not the right situation why doesn't the President or the current administration (unintelligible) situation instead of people pushing for the plans because at the end the situation seems to be yes, like, a simple blackmail even though you are not advising (unintelligible)? Thank you very much.

SECRETARY AZAR: So Rafael thank you for your question. I apologize your cellphone broke up or your connection broke up a good bit. So I hope I don't miss the mark. I will try to answer the question that I believe came through.

And what I would say is I referred to this earlier. There is a sure-fire way for a parent to remain with their child and that is to present yourself at a legal border crossing, make your case there. Now obviously there may be situations where someone is separated coming into the country to legal border crossing if there was suspected abuse, trafficking, smuggling etcetera. That goes without saying.

But your regular case of a family unit coming to the country presented at a legal border crossing, make your case there. If you think you have a case for asylum, you want to apply for a VISA preferably do that in your home country where that's happening okay you don't get separated.

But if you come into the country illegally we are a nation. We're a nation that has laws. The first act towards this country is an illegal act of coming to this country, breaking our law and what we've made clear is you will be detained and you will be prosecuted for breaking the law - it is a law. Unless we move to a system of open borders we have to enforce that law.

Enforcement that has consequences that is what we're talking about today. I'm just the Department of HHS and our role here is to do everything we humanly can for the kids who are separated from their parents for any reason including the tens of thousands every year separated by their parents to send them here illegally by themselves through a horrific and dangerous journey of deprivation, violence, risk, rape, mayhem etcetera to get to this border.

Our job is to take them in and care for them in a compassionate and loving way as possible through our grantees. To educate them, to give them healthcare and mental health, to give them dental, vision, meals, three meals a day plus two snacks minimum, athletic time, entertainment, a safe environment, you know, frankly something that in my mind expresses the best and most generous of the American spirit towards these children.

And that's our goal. That's what we do here at HHS. I appreciate those of you who've seen our facilities, seen the work that we do. And then of course we want to get these kids with their family members. We want to get them with family members who are here in this country, reconnect them. And then working with the court's order we want to get them now as safely and quickly as possible reunified with the parents that if they remain in DHS custody. So we're on that.

I would just close by saying we know what our mission is. We know what our job is. It's something that's very familiar to us. It is what we do. Dealing with children who are separated from their families, reconnecting them safely with their families. That is our job and we do it okay. This is nothing new. And that's the task for us. We're operationalizing that, executing it each day all hands-on deck to make that happen. Ryan.

MR. MURPHY: All right thank you Mr. Secretary and unfortunately that's all the time we have for today. Thank you all again for joining today's call. If you have any follow up questions, please direct those to media@hhs.gov. That's media@hhs.gov and we will get back to you as soon as possible. And with that we will end today's briefing. Thank you all.

END

FOR ATTRIBUTION:

ALEX M. AZAR II
SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

RYAN MURPHY
PRINCIPAL DEPUTY ASSISTANT SECRETARY, OFFICE OF THE ASSISTANT
SECRETARY FOR PUBLIC AFFAIRS (ASPA)

COMMANDER JONATHAN WHITE, OFFICE OF THE ASSISTANT SECRETARY FOR
PREPAREDNESS AND RESPONSE (ASPR)

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Wilcox, Kelly (HHS/ASFR)

From: Burbank, Nick (HHS/ASFR)
Sent: Thursday, February 14, 2019 11:13 AM
To: Burbank, Nick (HHS/ASFR)
Subject: FW: FOR YOUR REVIEW BY 12PM TODAY: Draft ASL letter re: UAC Placement
Attachments: 070818 UAC Letter for Clearance.docx

Importance: High

From: Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Sent: Monday, July 9, 2018 10:40 AM
To: Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>
Cc: Cash, Lester (HHS/ASFR) <Lester.Cash@HHS.GOV>; Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Powell, Natalie (OS/ASFR) <Natalie.Powell@hhs.gov>; Cabezas, Miriam (HHS/ASFR) <Miriam.Cabezas@hhs.gov>
Subject: FW: FOR YOUR REVIEW BY 12PM TODAY: Draft ASL letter re: UAC Placement
Importance: High

Hi Nick – this is close hold. Can you take a look and let us know if you have any comments? Thank you! Jillian

From: Wright, Natasha (OS/IOS)
Sent: Monday, July 09, 2018 9:55 AM
To: Stecker, Judy (OS/ASPA) <Judy.Stecker@hhs.gov>; Charrow, Robert (HHS/OGC) <Robert.Charrow@hhs.gov>; Kadlec, Robert (OS/ASPR/IO) <Robert.Kadlec@hhs.gov>; Meekins, Chris (OS/ASPR/IO) <Christopher.Meekins@hhs.gov>; Wynne, Maggie (HHS/IOS) <Margaret.Wynne@hhs.gov>; Lloyd, Scott (ACF) <Scott.Lloyd@acf.hhs.gov>; Wagner, Steven (ACF) <Steven.Wagner@acf.hhs.gov>; Moughalian, Jen (HHS/ASFR) <Jen.Moughalian@hhs.gov>; Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Phillips, Sally (HHS/ASPR/OPP) <Sally.Phillips@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Hayes, Jonathan (ACF) <Jonathan.Hayes@acf.hhs.gov>; Stimson, Brian (HHS/OGC) <Brian.Stimson@hhs.gov>; Arbes, Sarah (HHS/ASL) <Sarah.Arbes@hhs.gov>; Agnew, Ann (HHS/IOS) <Ann.Agnew@hhs.gov>; Morse, Sara (HHS/ASL) <Sara.Morse@hhs.gov>; Bassett, Matthew (HHS/ASL) <Matthew.Bassett@hhs.gov>; Caliguiri, Laura (HHS/IOS) <Laura.Caliguiri@hhs.gov>; Kalavritinos, Jack (OS/IEA) <John.Kalavritinos@hhs.gov>; Mansdoerfer, David (HHS/OASH) <David.Mansdoerfer@hhs.gov>; Murphy, Ryan (OS/ASPA) <Ryan.Murphy1@hhs.gov>; White, Jonathan (OS/ASPR/OPP) <Jonathan.White@hhs.gov>
Cc: Arbes, Sarah (HHS/ASL) <Sarah.Arbes@hhs.gov>; Agnew, Ann (HHS/IOS) <Ann.Agnew@hhs.gov>; Morse, Sara (HHS/ASL) <Sara.Morse@hhs.gov>; Bassett, Matthew (HHS/ASL) <Matthew.Bassett@hhs.gov>; Caliguiri, Laura (HHS/IOS) <Laura.Caliguiri@hhs.gov>; Kalavritinos, Jack (OS/IEA) <John.Kalavritinos@hhs.gov>; Mansdoerfer, David (HHS/OASH) <David.Mansdoerfer@hhs.gov>; OS OGC-IO ControlDesk (HHS) <ControlDesk.OCIO@hhs.gov>; Grove, Matthew R. (HHS/OS) <Matthew.Grove@HHS.GOV>; Robinson, Wilma (HHS/IOS) <Wilma.Robinson@hhs.gov>
Subject: FOR YOUR REVIEW BY 12PM TODAY: Draft ASL letter re: UAC Placement
Importance: High

Good Morning:

Attached for your review is a draft letter to go out today under ASL signature regarding the safety and placement of children in ORR care. Please note there are placeholders that ASPR needs to update regarding numbers for release and language that OGC needs to review.

Please provide any comments/edits to me and Sarah Arbes, cc'd, by 12 PM today, Monday, July 9, 2018.

Thank you,
Natasha

Natasha Wright, MA, MPH | Policy Coordinator
Executive Secretariat | Immediate Office of the Secretary

U.S. Department of Health and Human Services (HHS)
o. (202)260.7513 | Natasha.wright2@hhs.gov

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Wilcox, Kelly (HHS/ASFR)

From: Burbank, Nick (HHS/ASFR)
Sent: Thursday, February 14, 2019 11:10 AM
To: Burbank, Nick (HHS/ASFR)
Subject: FW: For review by NOON: draft of reunification plan for public consumptions
Attachments: UAC reunification plan RTC transmittal letter 7.16.18.docx; 7 14 18 plan draft.docx

From: Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Sent: Monday, July 16, 2018 9:07 AM
To: Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>
Subject: FW: For review by NOON: draft of reunification plan for public consumptions

Making sure you have this for your records. The report is also attached. Please do not forward. Let's save this on the G-Drive.

From: Donley, Katherine (HHS/ASFR)
Sent: Monday, July 16, 2018 8:22 AM
To: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>
Cc: Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Subject: RE: For review by NOON: draft of reunification plan for public consumptions

Norris,

Thanks for forwarding the report. Attached are the revised transmittal letters, with the correct title of the reunification plan incorporated.

Katie

From: Cochran, Norris (HHS/ASFR)
Sent: Monday, July 16, 2018 7:38 AM
To: Donley, Katherine (HHS/ASFR) <Katherine.Donley@hhs.gov>
Cc: Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Subject: Re: For review by NOON: draft of reunification plan for public consumptions

Thank you, Katie! The letter looks great. I forwarded the draft report. Agree on four corners. Let's format accordingly

Norris

On Jul 16, 2018, at 5:57 AM, Donley, Katherine (HHS/ASFR) <Katherine.Donley@hhs.gov> wrote:

Norris,

Attached is a draft transmittal letter for the UAC reunification plan report to congress.

Question: I am not sure what the title of the report is so I've enclosed a placeholder. Can you send the actual report my way and/or let me know what the title is? I can amend the letter accordingly and send it back to you.

Note: (b)(5)

(b)(5)

Let me know if anything else would be helpful.

Thanks,
Katie

From: Cochran, Norris (HHS/ASFR)
Sent: Saturday, July 14, 2018 10:03 AM
To: Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Donley, Katherine (HHS/ASFR) <Katherine.Donley@hhs.gov>
Subject: Fwd: For review by NOON: draft of reunification plan for public consumptions

Paola may step in to draft, but let's plan to provide a very short transmittal letter for the report Monday.

Norris

Begin forwarded message:

From: "Moughalian, Jen (HHS/ASFR)" <Jen.Moughalian@hhs.gov>
Date: July 14, 2018 at 9:45:39 AM EDT
To: "Cochran, Norris (HHS/ASFR)" <norris.cochran@hhs.gov>
Cc: "Curtis, Jillian (HHS/ASFR)" <Jillian.Curtis@hhs.gov>, "Zuco, Paola (OS/ASFR)" <Paola.Zuco@hhs.gov>
Subject: Re: For review by NOON: draft of reunification plan for public consumptions

Yes

Sent from my iPhone

On: 14 July 2018 09:43, "Cochran, Norris (HHS/ASFR)" <norris.cochran@hhs.gov> wrote:

Thank you, Jen. No edits. I think this document will be helpful. We will work on the letter to transmit the report. Do you want it to explicitly reference the House Appropriations Committee passed bill requirement?

Norris

On Jul 14, 2018, at 9:33 AM, Moughalian, Jen (HHS/ASFR) <Jen.Moughalian@hhs.gov> wrote:

Please let me know of any edits or comments by noon. Please also draft the normal letter as soon as possible on Monday that would accomplish submission of this report to the Four Corners in response to the House amendment Weds. let me know if you have questions thx

Sent from my iPhone

Begin Forwarded Message:

From: "Brennan, Patrick (OS/ASPA)"
<Patrick.Brennan@hhs.gov>
Subject: For review by NOON: draft of reunification plan
for public consumptions
Date: 14 July 2018 09:28
To: "OS_ASPA_UAC Tier 1" <OS_ASPA_UAC-
Tier1@hhs.gov>
Cc: "Burleson, Roman (OS/ASPA)"
<Roman.Burleson@hhs.gov>

Hi all,

Attached is a draft of the public summary of the Stage II reunification plan. (This has already been reviewed for consistency with the operational plan and the court declaration by OGC and ASPR.)

The goal for this document is to be a resource for the public, journalists, and Congress, laying out that we have a formal process on which the three departments have agreed. It will include a graphic/flow chart of sorts, which I add for everyone's review send as soon as it's done, and be typeset as a PDF.

Please let me know if you have edits **by noon today** if possible so we can get this to the other departments. Thank you!

Best,
Patrick

Patrick Brennan
Department of Health and Human Services
Office: 202-205-2819 | Cell: 202-(b)(5)

Predecisional/deliberative communication

<7 14 18 plan draft.docx>

<UAC reunification plan RTC transmittal letter 7.16.18.docx>

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Wilcox, Kelly (HHS/ASFR)

From: Burbank, Nick (HHS/ASFR)
Sent: Thursday, February 14, 2019 11:08 AM
To: Burbank, Nick (HHS/ASFR)
Subject: FW: For review by 11 AM: updated public plan for reunification
Attachments: 7 15 18 plan draft.docx

From: Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>
Sent: Monday, July 16, 2018 10:21 AM
To: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>
Subject: FW: For review by 11 AM: updated public plan for reunification

(b)(5)

From: Moughalian, Jen (HHS/ASFR)
Sent: Monday, July 16, 2018 10:18 AM
To: Cochran, Norris (HHS/ASFR) <norris.cochran@hhs.gov>; Curtis, Jillian (HHS/ASFR) <Jillian.Curtis@hhs.gov>; Burbank, Nick (HHS/ASFR) <Nick.Burbank@HHS.GOV>
Cc: Zuco, Paola (OS/ASFR) <Paola.Zuco@hhs.gov>
Subject: FW: For review by 11 AM: updated public plan for reunification

For your review and comment. thx

From: Brennan, Patrick (OS/ASPA)
Sent: Monday, July 16, 2018 7:08 AM
To: OS_ASPA_UAC Tier 1 <OS_ASPA_UAC-Tier1@hhs.gov>
Subject: For review by 11 AM: updated public plan for reunification

Hi all,

Attached is a somewhat updated version of the public document we'd like to publish with DHS and DOJ laying out the reunification process. This should reflect the updates in the latest court filing.

Please let me know if you have edits by 11 AM. Thank you!

Best,
Patrick

Patrick Brennan
Department of Health and Human Services
Office: 202-205-2819 | Cell: (b)(6)

Predecisional/deliberative communication

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

From: White, Jonathan (OS/ASPR/EMMO)
Sent: 19 Dec 2018 21:30:03 +0000
To: White, Laura (ACF)
Cc: Moomaw, Sara (ACF);Fields, Marivic (Maria) (ACF)
Subject: Draft approps report information
Attachments: 189 Revised Reunification Plan Filing.pdf, 109-1 - Ms. L - Exhibit HHS DHS Unified Plan of operations.pdf, Unaccompanied Children-Approps Report-DRAFT-12192018.docx

I have attached a draft response (the Word file attached). The response of necessity incorporates the Court-approved plans, which are attached in their filing format, and which should be part of the response. If we are not permitted to send such substantiating attachments, we will need to cut and paste the exact language of the plans out of the relevant filings and into the response.

Let me know what else you might need from me.

Jonathan

Jonathan D. White, Ph.D., LCSW-C, CPH
Commander, U.S. Public Health Service Commissioned Corps
FHCO/IC, UAC Reunification

HEALTH AND HUMAN SERVICES (DHHS) | Thomas P. O'Neill Federal Building | 200 C Street SW | Washington, DC 20515
| m. (202) (b)(6) |
jonathan.white@hhs.gov | www.phe.gov

Disclaimer:

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*Attorneys for Federal Respondents-
Defendants*

19 UNITED STATES DISTRICT COURT
20 SOUTHERN DISTRICT OF CALIFORNIA

21 MS. L, et al.,

22 Petitioners-Plaintiffs,

23 vs.

24 U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT, et al.,

25 Respondents-Defendants.
26
27
28

Case No. 18cv428 DMS MDD

**NOTICE REGARDING
IMPLEMENTATION OF PLAN FOR
REUNIFICATIONS ABROAD**

1 As requested by the Court, the parties met and conferred regarding
2 Defendants' reunification plan for removed class members. At the request of
3 Plaintiffs, and after discussion between the parties, Defendants have agreed to some
4 changes to the plan document, and Defendants therefore submit the attached revised
5 plan document that reflects those changes. The parties having now reached
6 agreement on this plan, Defendants respectfully ask that the Court approve the plan
7 so that the reunification process for removed parents under this plan can move
8 forward immediately.

9 In making this request, Defendants note that their agreement to the changes
10 proposed by Plaintiffs, as well as their ability to move forward in implementing the
11 attached plan, relies on Defendants' understanding that nothing in this Court's
12 preliminary injunction order (or the plan) requires Defendants to return any removed
13 class members to the United States for the purpose of reunification. Indeed, such a
14 requirement would be inconsistent with the Court's order making clear that the
15 Government "remain[s] free to enforce its criminal and immigration laws, and to
16 exercise its discretion in matters of release and detention consistent with law." ECF
17 No. 83 at 20.¹ Thus, Defendants' plan proposes an efficient process to reunify
18 children with their parents who have been removed in the family's home country,
19 and Defendants have agreed to the changes in the attached plan with the
20 understanding that, upon the Court's approval of the plan, reunifications will be able
21 to proceed in that manner.

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25 ¹ This Court's previous order also is consistent with the application of parole
26 authority, which must be exercised on a case-by-case basis and is a non-reviewable
27 discretionary authority of the Secretary of Homeland Security. *See* 8 U.S.C.
28 § 1182(d)(5); 8 C.F.R. § 212.5; *see also* 8 U.S.C. § 1252(a)(2)(B)(ii).

1 Plaintiffs in *M.M.M. v. Sessions*, Case No. 18-cv-1832 (S.D. Cal.), also
2 pending before this Court, and the companion case in the District of Columbia
3 raising materially identical issues, *M.M.M. v. Sessions*, Case No. 18-cv-1835
4 (D.D.C.), have suggested through email communication and at oral argument this
5 week in the District Court for the District of Columbia that they intend to take the
6 position that where a child has been separated from his or her parent, and that parent
7 has been removed, the child has a legal right to demand that the Government return
8 his or her parent to the United States to act as a consultant on behalf of the child in
9 any further asylum or protection-related proceedings to which the child may be
10 entitled. Regardless of whether such a right exists—a proposition that Defendants
11 strongly dispute and would oppose if raised directly with this Court or the District
12 Court for the District of Columbia—such assertions would directly and significantly
13 interfere with Defendant’s ability to execute the attached plan.

14 If *M.M.M.* Plaintiffs choose to interfere with implementation of the attached
15 plan by requesting this relief, such a request would be fundamentally at odds with
16 the prompt reunification contemplated by the parties in this case, would make
17 implementation of the attached plan unworkable as currently written, and would
18 request relief that the Court lacks jurisdiction to order. Accordingly, Defendants
19 request that in approving this plan, the Court make clear that it does not intend to
20 require the Government to return *Ms. L* class members to the United States for
21 purposes of reunification, but instead will permit the Government to proceed under
22 the attached plan to reunify children with their parents in their home country.

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1 DATED: August 16, 2018

Respectfully submitted,

2 CHAD A. READLER
3 Acting Assistant Attorney General
4 SCOTT G. STEWART
5 Deputy Assistant Attorney General
6 WILLIAM C. PEACHEY
7 Director
8 WILLIAM C. SILVIS
9 Assistant Director

10 /s/ Sarah B. Fabian

11 SARAH B. FABIAN
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23 ADAM L. BRAVERMAN
24 United States Attorney
25 SAMUEL W. BETTWY
26 Assistant U.S. Attorney

27 *Attorneys for Respondents-Defendants*
28

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is Box 868, Ben Franklin Station, Washington DC 20044. I am not a party to the above-entitled action. I have caused service of the accompanying **NOTICE REGARDING IMPLEMENTATION OF PLAN FOR REUNIFICATIONS ABROAD** on all counsel of record, by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically provides notice.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: August 16, 2018

s/ Sarah B. Fabian
Sarah B. Fabian

Interagency Plan for Reunification of Separated Minors with Removed Parents August 16, 2018

SCOPE

This plan describes roles, responsibilities, and activities for U.S. government agencies to effect the reunification of minors currently in the care of the Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) who were separated from class member parents by the U.S. Department of Homeland Security (DHS), and who have been removed or have departed from the United States or released from the custody of U.S. Immigration and Customs Enforcement (ICE).

COORDINATION GROUP

Each Cabinet Department (U.S. Department of Justice (DOJ), U.S. Department of Health and Human Services (HHS), U.S. Department of Homeland Security (DHS), and U.S. Department of State (DOS)) has designated a lead. The four leads together constitute the UAC Reunification Coordination Group for removed parents and minors in ORR care. This group fulfills Judge Sabraw's requirement for an "accountable individual or team." The operational lead for each Department is responsible for coordinating resource requests to the respective Department, briefing the Secretary (or designee) for the Department, representing the Department in the interagency planning process, and serving as point of contact for interagency partners to ensure unity of effort and effective interagency collaboration. The Coordination Group consists of the following individual points of contact (POC):

1. DHS: U.S. Immigration and Customs Enforcement (ICE) Acting Deputy Assistant Director Robert Guadian
2. DOJ: Scott G. Stewart, Deputy Assistant Attorney General, Civil Division (non-operational role; will take the lead in addressing the Court and coordinating with Plaintiffs' counsel)
3. DOS: Dale Eppler, Acting Deputy Secretary, Western Hemisphere Affairs Bureau
4. HHS: Commander Jonathan D. White

OPERATIONAL CORE PROCESSES

The plan for reunifications with removed class members has five processes:

1. Identify and Resolve Safety/Parentage Concerns
2. Establish contact with parents who have been removed from the United States
3. Determine parent's intention for child
4. Resolve immigration status of minors to allow reunification
5. Transport minors to their respective countries of origin (COO)

The plan for reunifications for parents released into the interior of the United States is listed in the parties' Joint Status Report. Below is the plan for removed parents.

PROCESS 1 – IDENTIFY & RESOLVE SAFETY/PARENTAGE CONCERNS

- HHS, DHS, and DOJ determine whether each purported class member parent actually is a class member and eligible for reunification.
- HHS conducts a case review of each minor in care for reunification with a removed class member, to determine if the reunification is cleared to the standard established in the *Ms. L* case. This consists of reviewing the criminal background summary previously provided by DHS, through ICE, as well as the child's case record in the UAC Portal system, to identify if there are any specific reasons to doubt parentage or to question the safety of the child. The standard of review is the same as that used for "ORR Clearance" in Phase II (for reunification of minors aged 5-17 with parents in ICE custody).
- For cases where there are no indications to doubt parentage, and no indications to doubt child safety, ORR will designate that reunification is "Green-lighted" and the reunification will proceed as below.
- For cases where ORR identifies any cause to doubt parentage, HHS will refer those cases to the government of the country of origin (COO) via the designated Embassy or Consular Network in the United States for relationship verification. The government of the COO will determine parentage using documents, interviews, investigations, or other methods deemed suitable by that government. The Embassy of the COO will notify HHS whether the parentage is verified, and HHS will rely upon the determinations of the government of the COO. Where parentage is confirmed by the Embassy of the COO, HHS will proceed to the next step in reunification. Where parentage is denied by the Embassy of the COO, the child will proceed into the standard ORR sponsorship process. If parentage is denied, the decision shall be conveyed, as part of the weekly update to the class list, to the ACLU/Steering Committee, which shall be permitted, within a reasonable timeframe not to exceed five days, to present evidence demonstrating parentage. If Plaintiffs continue to disagree with the Government's determination, Plaintiffs may bring the dispute to the Court.
- For cases where ORR identifies any cause to doubt the safety of the reunification (such as allegations of abuse made by the child while in care, or criminal background check summary results indicative of danger, such as prior criminal convictions for crimes such as child abuse, sexual exploitation of a minor, sexual assault, domestic violence, human trafficking, child pornography, rape, kidnapping, or murder), ORR will refer the case to ORR Federal Field Specialists for further inquiry. If the determination is made that the reunification cannot be approved due to safety concerns, the child will proceed into the standard ORR sponsorship process. Such determinations shall be conveyed, as part of the weekly update to the class list, to the ACLU/Steering Committee, which shall be permitted, within a reasonable timeframe not to exceed five days, to present evidence demonstrating parental fitness or lack of criminal history purportedly preventing reunification. If Plaintiffs continue to disagree with the Government's determination, Plaintiffs may bring the dispute to the Court.

PROCESS 2 – ESTABLISH CONTACT WITH PARENTS IN COUNTRY OF ORIGIN

- ORR develops a line list based on information solicited from shelter programs providing care for children of removed class members, identifying the contact status of class member parents. Initial list was completed on Tuesday, 7 August 2018, and will be iteratively updated thereafter.
- From the above line list, HHS provides the list of removed parents who have not yet been located/contacted to a DOS POC who will relay to U.S. Embassy personnel in each of the countries to which parents were removed.
- DOS and DHS will liaise with the COO government to assist the COO government in identifying contact information for parents who have not yet had contact information identified. DOS will contact COO government authorities through existing channels as required to facilitate partnership. These efforts will be conducted at the U.S. Embassy in each COO through engagement with local authorities to identify contact information for remaining parents (such as local address and telephone number).
 - In exceptional cases, the ACLU/Steering Committee may alert the Government that liaising with COO governments concerning specific Class Members may pose a particularized danger to that Class Member. In such cases, following such notification, the Government may refrain from any further liaising with the COO government regarding that Class Member.
- DOS will provide daily updates with contact information on located parents to HHS.
- HHS updates list daily with information received.
- DOS will place on U.S. Embassy websites—and communicate to U.S. consulates in countries to which parents were removed—a hotline phone number that provides direct contact to American Civil Liberties Union (ACLU) Steering Committee. The ACLU/Steering Committee will establish, maintain, and staff this number, and will provide the number to DOS for this purpose. DOS will also work with COO government officials to identify other ways to make this information available to removed parents in those countries, including asking the COO government to post notices, advertisements, and billboards and conduct other outreach efforts as necessary.
- Each Tuesday, the ACLU/Steering Committee will provide to the UAC Reunification Coordination Group (via the DOJ member of that group):
 1. A copy of the list of class members who have not been reunified with their child(ren) and are not in the United States, as most recently provided by the Government to the ACLU/Steering Committee, annotated to indicate whether the ACLU/Steering Committee has contacted the class members, and the status of any efforts to confirm whether that class member wishes to be reunified with his or her child(ren).
 2. A list of any class members for whom the ACLU/Steering Committee has been unable to obtain direct contact information using all of the information already provided by the government, and a description of the efforts that the ACLU/Steering Committee has made to locate that direct contact information.
- For any class member for whom direct contact information cannot be obtained after

all of these steps are completed, the parties will meet and confer to discuss what additional steps should be taken to attempt to locate direct contact information for that class member. If the parties cannot agree on additional steps to be taken, then the parties will inform the Court and seek guidance on how to proceed.

PROCESS 3 – DETERMINE PARENTAL INTENTION FOR MINOR

- Case managers in ORR grantee programs where children are sheltered in many cases are already in contact with parents using identified contact information. In cases where contact has already occurred, the status of these contacts is conveyed by HHS through DOJ to the ACLU. The ACLU shall be responsible, as the counsel to the parents, for determining and conveying the parents' wishes. HHS (via DOJ) will provide the ACLU/Steering Committee with a list of children with an indication whether HHS is aware that the child is represented by an attorney along with any available names and contact information for such attorneys, and will provide updated information within a reasonable timeframe of it becoming available to HHS.
- The ACLU will develop an appropriate form for parents outside the United States who wish to waive reunification with their children. The form would serve as a document recording the parent's wishes with respect to reunification, and would upon receipt be maintained in the A-Files of both parent and child. This form would ordinarily be accompanied by the standard ORR Letter of Designation, in the case of parents who wish to designate another individual to be considered as the sponsor of the child for standard ORR purposes. The parties recognize that securing such a form may be impracticable in some cases. In those cases the ACLU/Steering Committee will provide an affidavit signed by an ACLU/Steering Committee attorney stating why securing such a form from the Class Member is impracticable, and providing the attorney's sworn statement as to the class member's selections that would otherwise be reflected in the form.
- Parents indicate to the ACLU/Steering Committee whether they elect to have the child reunified with them in COO, or affirmatively, knowingly, and voluntarily waive reunification and have the child proceed through standard TVPRA-governed ORR sponsorship process. In the latter case, the parent identifies (if he/she wishes) a relative or other individual to serve as sponsor via ORR Letter of Designation.
- DOJ provides weekly updated lists with contact information on located parents in the COO to the ACLU/Steering Committee. The ACLU/Steering Committee agrees to make best efforts to contact all parents within 10 days of receiving contact information (or within 10 days of the date on which the Court approves this Plan, whichever is later). If the ACLU/Steering Committee is not able to contact a parent within 10 days after exhausting its best efforts to do so, the ACLU/Steering Committee shall promptly meet and confer to try to agree on a reasonable extension of this time period.
- The ACLU/Steering Committee confirms any decision for the child to be reunified or remain in ORR care on its client's behalf within 14 days of the ACLU/Steering Committee actually contacting the parent, or the conclusion of the above 10-day contact period, whichever is sooner. The ACLU/Steering Committee will use its best

efforts to meet the 14-day time limit and will inform the Government promptly if additional time is required for a specific class member notwithstanding such effort. The parties shall promptly meet and confer to try to agree on a reasonable extension of the 14-day time limit. The parties shall present any disputes to the Court as needed.

- For children whose parents have expressed a wish for reunification, and who are “green- lighted” by ORR (as detailed in Process 1, above), reunification proceeds (Processes 4 and 5, below).
- For children whose parents decline reunification, the parent is removed from the class, and the child proceeds in the U.S. pursuant to the standard, TVPRA-governed ORR sponsorship process.
- The ACLU/Steering Committee must provide Defendants with final, affirmative, knowing, and voluntary written confirmation of whether any specific removed class member wants to be reunified with his or her child. As discussed above, the ACLU/Steering Committee must do so within 14 days of actually contacting the class member, or exhausting the time period for contacting the class member, whichever is sooner. The 14-day period may be extended by the agreement of the parties or the Court. If written confirmation cannot be obtained from a class member, then the ACLU/Steering Committee will provide an affidavit signed by an ACLU/Steering Committee attorney attesting to either the class member’s final, affirmative, knowing, or voluntary written confirmation, or that such confirmation could not be obtained from the class member.
- The ACLU/Steering Committee coordinates with counsel for the children, both class counsel and any individual counsel, to confirm that where parents have elected to reunify with children, attorneys for those children confirm that the U.S. government may transport the child to the home country for reunification. The ACLU/Steering Committee affirmatively communicates to DOJ prior to scheduling the reunification that counsel for the children agree that reunification may occur.
- If a class member who has been removed chooses reunification, the ACLU/Steering Committee will ensure that the class member provides any information required to complete the Court’s process for confirming that the Court’s criteria for class membership and reunification are met (e.g., parentage, criminal history, parental fitness, or child safety), to the extent that Class Members or the ACLU/Steering Committee possess or can reasonably obtain such information.
- If a class member who has been removed chooses reunification, the ACLU/Steering Committee will ensure that the class member provides any additional information or documents that the government may require to facilitate return of the child to the COO for the purpose of reunification of the class member and his or her child, to the extent that Class Members or the ACLU/Steering Committee possess or can reasonably obtain such information.
- If a class member who has been removed chooses not to be reunified, the ACLU/Steering Committee will assist ORR in obtaining a written letter designating relatives in the United States whom the parents would find acceptable as sponsors (the standard Letter of Designation used in the ORR program), which will guide ORR to the same extent as a Letter of Designation in other (non-separated) circumstances in

the UAC Program. If the class member declines to participate in this process, ORR will pursue the standard TVPRA/UAC placement with a sponsor in the United States.

PROCESS 4 – RESOLVE IMMIGRATION STATUS OF MINORS TO ALLOW REUNIFICATION

In the case of any child whose reunification is not authorized by the Court's order, the U.S. government may not complete reunification until after children's immigration procedures are completed in the ordinary course.

If the parent selects reunification, then by Court approval of this plan the U.S. government is authorized to proceed with reunifications in accordance with this plan as follows:

1. If no NTA has been issued/filed, then the U.S. Government can transport the child to the COO for the purpose of reunification with the parent.
2. If an NTA has been issued but not filed with EOIR, DHS will cancel the NTA and then the U.S. Government can proceed with transporting the child to the COO for the purpose of reunification with the parent.
3. If an NTA has been issued and filed with EOIR, DHS will move to dismiss proceedings without prejudice, noting in such motion that it is based on *Ms. L* reunification, after which the U.S. Government can proceed with transporting the child to the COO for the purpose of reunification with the parent.
4. For each child who is reunified with a parent pursuant to this Plan in the COO, the repatriation will be without prejudice to the minor's future ability to apply for asylum or withholding of removal under the Immigration and Nationality Act or protection under regulations implementing U.S. obligations under Article 3 of the Convention Against Torture, if the child returns to the United States.
5. The procedures set forth above are for the *Ms. L* class only, and are not intended to establish a precedent that will apply to any other cases or proceedings.

PROCESS 5 – TRANSPORTATION OF MINORS FOR PHYSICAL REUNIFICATION WITH PARENT IN COUNTRY OF ORIGIN

- If a class member who has been removed chooses reunification, the U.S. government will provide transportation for the child to the COO to facilitate reunification, pursuant to applicable authorities and as consistent with law.
- HHS updates the list of minors for whom the government has completed Processes 1-4 above, and who are eligible for transportation to the COO for purposes of reunification and whose parents have elected reunification. This list is provided to all network partners.
- DHS, through ICE (with DOS assistance, as needed), liaises with the Embassy and/or consular network of the COO in the United States to ask them to produce travel documents for the child.
- As needed and in collaboration with DHS, through ICE, DOS requests the government of the COO to expedite preparation of travel documents.

- The ORR shelter grantee prepares the child for discharge and transport.
- If required, ORR directs shelter programs providing care to minors eligible for reunification in COO to arrange transport from the shelter or transfer the child to an appropriate location in the United States.
- ORR will direct shelter programs providing care to minors eligible for reunification in COO whether the minors' transportation will be arranged from their shelter location or whether they will be transferred to another appropriate staging location.
- The U.S. Government will coordinate travel to the COO once travel documents from the COO government are received. U.S. Embassies in each COO liaise with government authorities for the COO to arrange reception of flights of minors and physical reunification of minors with their parents at the debarkation airport. All reunifications in the COOs shall be effectuated by the respective COO governments.
- The Government shall facilitate transportation of children to their respective COOs, including the arrangements for travel. The Government will consider the views and particular issues raised by the ACLU/Steering Committee with respect to such arrangements.

HHS/DHS UNIFIED PLAN OF OPERATIONS

FOR REUNIFICATION OF 5-17 YEAR OLD POPULATION TO INCLUDE FLOW CHART AND SUMMARY OF REQUIRED STEPS

14 JULY 2018

OPERATIONAL SCOPE:

1. Swift reunification of adults and children from age group 5-17 subsequent to separation, after determination of parentage, fitness, and danger.
2. There will be a total of eight ICE locations that will operate for as long as necessary to effect efficient reunification of children with parents. There will be a population of no more than 50 (estimated) children that will require transport to locations outside of the three ICE AORs for individual reunification. This will be coordinated with the HHS IMT and the ICE LNOs on site at HHS.

LOGISTICS AND POTENTIAL LIMITING FACTORS:

1. Strict coordination and adherence to agreed upon planning and operational factors by all involved.
2. The requirement for HHS to transfer and ICE to receive high volumes of children at pre-designated sites. EXTENDED HOURS OF OPERATIONS OR 24/7 OPERATIONAL PERIODS MAY BE REQUIRED, AS INDICATED.
3. ICE will incur all costs for the transportation of the adult population and HHS will incur the cost of moving the child (to pre-designated location). ICE will transport the reunited families, adults and minors as necessary, following reunification.

HHS/DHS UNIFIED PLAN OF OPERATIONS

FOR REUNIFICATION OF 5-17 YEAR OLD POPULATION TO INCLUDE FLOW CHART AND SUMMARY OF REQUIRED STEPS

14 JULY 2018 (Page 2)

OPERATIONAL REQUIREMENTS AND PLANNING EFFORTS:

- A. ICE will provide NCIC background information. ORR to review and assess for criminal concerns. ICE will provide additional category of “convicted” vs. “charged” for the adult population identified with concerns from the NCIC review (step 1 in the process flow). ICE will be responsive to all requests for additional information to expedite “clearance” or “removal” of adult from the certification list for reunification.
- B. ORR to review case file to identify any pertinent “red flags”, eg: the child was not accompanied by a parent, was smuggled, or would otherwise be subject to safety/security concerns. Home studies are performed only in the following cases:
- (1) a child who is a victim of a severe form of trafficking in persons;
 - (2) a special needs child with a disability;
 - (3) a child who has been a victim of physical or sexual abuse under circumstances that indicate that the child’s health or welfare has been significantly harmed or threatened; or
 - (4) or a child whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence.
- C. If red flags, ORR will undertake further review and action as appropriate. If ORR finds no red flags, proceed towards reunification on track below.
- D. ORR will create and publish daily updated lists of “request to interview” (RTI) adults for reunification.
- E. ICE Field Offices will review the A#’s submitted by ORR using EARM and flag if any adults have an executable Final Order.
- F. ICE will notify HHS/ORR/SOC immediately if the adult elects to be removed without the child (and all supporting paperwork MUST be forwarded to HHS/ORR/SOC or be made immediately available through electronic links between HHS and ICE).
- G. ICE to move selected adult population to identified sites for Field Team Interview (there will be a few isolated individuals outside of the three selected ICE AORs who are currently closer to their minor child in ORR care).

HHS/DHS UNIFIED PLAN OF OPERATIONS

FOR REUNIFICATION OF 5-17 YEAR OLD POPULATION TO INCLUDE FLOW CHART AND SUMMARY OF REQUIRED STEPS

14 JULY 2018 (Page 3)

- H. ICE will NOT transfer any pending adults for reunification outside or away from the three ICE AORs. ICE will transfer all non-executable Final Orders and litigation pending cases (except PHO, ELP, SNA, to SNA AOR – *but will not do so, as stated above, if children are already in the same AOR as the adult.*
- I. HHS contractor to perform intake of adult (15 min interview).
- J. If HHS contractor finds red flags, undertake further review and action as appropriate. If HHS contractor finds no red flags, complete reunification as below.
- K. ICE will support HHS/ORR authorized personnel at reunification sites for parental screening procedures.
- L. Contractor to notify IMT of “green” status of adult population (from list) and IMT to execute logistical plan for child to move to designated location within 06-48 hours of notification of final clearance.
- M. ICE will conduct final check and confirm “greenlight” on reunification (with ORR).
- N. Child is transported to designated location.
- O. Paperwork exchange, transfer of responsibility between agencies and reunification occurs.
- P. ICE to coordinate with MVM to dispatch reunited family to a pre-identified NGO release location. To request assistance through this program, email the MVM Command Center at mvmcommandcenter@mvminc.com. Also copy Supervisory Detention and Deportation Officer Roberto R. Salazar, at Roberto.R.Salazar@ice.dhs.gov. MVM may also be contacted via phone at (956) 621-7920

PLEASE SEE FLOW CHART ON THE FOLLOWING PAGE



000130

Unaccompanied Children. – The Committee also **directs the Secretary of HHS to work in collaboration with the Secretary of DHS to submit a report to the Committees on Appropriations of the House of Representatives and of the Senate within 60 days of this bill’s enactment** detailing actions it has taken and will take and policies it has implemented and will implement to facilitate: (1) the ability of separated children to make contact and maintain communication with their separated parents, relatives, legal guardians, or primary caregivers (for tender-age and non-verbal children, this should include methods to facilitate in-person visits and video chats); (2) the ability of family members residing abroad to utilize the hotline to receive information on the status and location of separated children; and (3) the coordinated reunification and post-release support of a separated child and adult family member, when it is in the best interest of the child.

For parents of children in ORR care, the primary channel for ongoing contact is not the hotline, but direct calls between the child and the parent. ORR Policy and Procedure Manual section 3.3.10¹ requires shelter programs to provide each child with at least two telephone calls each week in a private setting to parents or other relatives of the child’s choice. The cost of the call is paid for using program funds and does not incur cost to the child’s family. Each child’s assigned case manager is tasked with establishing contact with the child’s parent, both to facilitate communication between the parent and child, and to allow the case manager to coordinate with the parent regarding the case management plan for the child. ORR case managers established contact with the parents of all separated children in ORR care. As we reported in the Joint Status Report provided to the *Ms. L.* court on September 13, 2018, all children with parents outside the U.S. had parent contact information identified.

The Incident Management Team (IMT) stood up by the HHS Office of the Assistant Secretary for Preparedness and Response in June 2018 had as one of its three mission objectives fostering contact between separated children and their parent. This team, working in partnership with ICE colleagues, identified and addressed barriers to telephonic contact between children in ORR care and parents in ICE detention facilities, prior to the reunification of children with their parents. The HHS IMT deployed over 300 Federal response personnel into the field, including ORR Federal Field Specialists, ACF human services emergency response specialists, ASPR Regional Emergency Coordinators, US Public Health Service Commissioned Corps officers, members of the National Disaster Medical System’s Disaster Medical Assistance Teams, as well as over 100 contracted case management personnel. These personnel met with parents in ICE custody to conduct interviews, and in the process, established direct contact between parents and children in cases where contact was not already ongoing, including assistance making the first call to the child’s shelter program. HHS liaised with ICE officials at detention facilities to put in place efficient systems to allow children and parents to be in contact. DHS provided information on the ORR UAC Call Center to detained individuals. Separated minors in ORR care are in

¹ The ORR Policy and Procedure Manual is publicly available at <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-3#3.3.10>

contact with their parents and other family members. ORR UAC Program efforts to promote the coping and psychological well-being of every child in care includes attention to the developmental needs of very young (under five years of age) children, such as the challenges for very young children to participate in phone interactions with parents and family members.

The UAC Call Center has long operated to be available for families searching for migrating UAC; the system is designed to serve parents of UAC in home country while also providing for the child's safety, given the specific trafficking and other risks to which children in the ORR program are exposed. To ensure consistent practice regarding all contacts, the following standard protocol is utilized for the National Call Center program. When a caller contacts NCCSAH to locate an unaccompanied child potentially in the ORR system, Call Specialists (1) review the child's history in the contractor database to evaluate call history and possible risks previously identified for the case, and (2) search for the child in the UAC Portal (the ORR electronic case management system) to identify the child's location. If the child is in the ORR system, Call Specialists do not disclose the child's location to the caller, but they confirm to the caller that the child is safe and that his or her inquiry is forwarded to the relevant care provider. The Call Specialist emails the care provider contact information for the inquiring caller, completes a case note, and waits for the care provider's response. If the provider does not respond, the Call Specialist sends a second email. Notification to the NCCSAH Assistant Project Manager and Project Manager occurs if the second email does not result in a response from the care provider. Subsequent contact with the inquiring caller is at the discretion of the care provider. If the child is not in the ORR system, the Call Specialist relates this information to the caller, informing him or her that child data may not appear in the system for up to 48 hours after detention. The Call Specialist also searches for the child's name in the ICE adult locator and continues to check the UAC Portal daily. Once found, the Call Specialist contacts the caller and follows the protocol above. If the child does not appear in the UAC Portal within seven days, the Call Specialist files a missing person's report in the U.S. city through which the child planned to cross and generates a Critical Incident Report (CIR) in the Call Center database. Using the police report number generated by the missing persons' report, the Call Specialist enters the child with the National Center for Missing and Exploited Children. Callers are referred to relevant consulates and local police, as necessary to ensure safety.

Coordinated reunification of separated children and the parent from whom they were separated has been effected pursuant to the interagency operational plans which have been submitted to Judge Dana Sabraw of the Southern District of California and approved by the judge. Specific plans have been developed, approved by the Court, and implemented for children with parents in ICE detention, children with parents released into the interior of the United States, and parents whose parents have departed the United States. Attached to this response are copies of the filings, which contain the interagency plans proposed by the government and approved by Judge Sabraw. HHS stood up an Incident Management Team to coordinate operational activities required by these plans, which included efforts consistent with *Ms. L.* court direction to resolve any questions about parentage or identified concerns about the safety of the child based on review of the child's case file and the parent's criminal background check summary. Operational plans for reunification of children were executed as designed and as approved by the Court, resulting in the reunification of 2,131 minors with the parents from whom they were separated (as of December 12, 2018). As of the *Ms. L vs. ICE* Joint Status

Report filing on December 12, 2018, only eight children of *Ms. L* class members remain potentially to be reunified. All other children of *Ms. L* class members have been reunified with parents, otherwise appropriately discharged from ORR care, or are in ORR care on a pathway to standard sponsorship rather than reunification because the separated parent waived reunification or in a few cases because ORR made a final determination that reunification would pose an unacceptable risk to the safety and well-being of the child.

From: Hooban, Christopher (ACF)
To: White, Jonathan (OS/ASPR/SPPR)
Subject: Re: odd question
Date: Friday, August 31, 2018 10:13:42 AM

NP

Chris Hooban, MS, MPH
Lieutenant, U.S. Public Health Service Commissioned Corps

Preparedness & Community Resilience Coordinator
Office of Human Services Emergency Preparedness
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Administration for Children and Families (ACF)
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Christopher.Hooban@acf.hhs.gov

On: 31 August 2018 10:11,
"White, Jonathan (OS/ASPR/SPPR)" <Jonathan.White@hhs.gov> wrote:

I really appreciate how proactive and responsive you have been. Thanks.

Jonathan D. White, Ph.D., LCSW-C, CPH
Commander, U.S. Public Health Service Commissioned Corps

FHCO, UAC Reunification

HEALTH AND HUMAN SERVICES (DHHS) | Thomas P. O'Neill Federal Building | 200 C Street SW | Washington, DC 20515
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jonathan.white@hhs.gov | www.phe.gov

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"Hooban, Christopher (ACF)" <Christopher.Hooban@acf.hhs.gov> wrote:

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From: White, Jonathan (OS/ASPR/SPPR)
Sent: Friday, August 31, 2018 7:35 AM
To: Hooban, Christopher (ACF) <Christopher.Hooban@acf.hhs.gov>
Subject: Re: odd question

Thank you!

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On: 31 August 2018 07:18,
"Hooban, Christopher (ACF)" <Christopher.Hooban@acf.hhs.gov> wrote:

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I also attached the Summary Document I created and provided to CAPT Rains before I left. It has some info that may or may not be useful as you continue to respond to requests.

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From: White, Jonathan (OS/ASPR/SPPR)
Sent: Thursday, August 30, 2018 6:37 PM
To: Hooban, Christopher (ACF) <Christopher.Hooban@acf.hhs.gov>
Subject: Re: odd question

Thanks!

Jonathan D. White, Ph.D., LCSW-C, CPH
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On: 30 August 2018 18:29,
"Hooban, Christopher (ACF)" <Christopher.Hooban@acf.hhs.gov> wrote:

I'll get you whatever I have by noon tomorrow.

Chris Hooban, MS, MPH

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On: 30 August 2018 18:08, "White, Jonathan (OS/ASPR/SPPR)" <Jonathan.White@hhs.gov> wrote:

How's noon tomorrow?

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Sent: Thursday, August 30, 2018 5:39 PM
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I can look back at my records. When do you need a response by - I am not near my computer?

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To: [Hooban, Christopher \(ACF\)](#)
Subject: Re: odd question
Date: Friday, August 31, 2018 10:11:22 AM

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Subject: RE: odd question
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Lieutenant, U.S. Public Health Service Commissioned Corps

Preparedness & Community Resilience Coordinator
Office of Human Services Emergency Preparedness
and Response (OHSEPR)
Administration for Children and Families (ACF)
U.S. Department of Health and Human Services

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330 C Street, SW
4th floor, Room 4008A
Washington, DC 20201
Office (202) 205-8557
Cell (202) (b)(6)
Christopher.Hooban@acf.hhs.gov

From: White, Jonathan (OS/ASPR/SPPR)

Sent: Thursday, August 30, 2018 6:37 PM

To: Hooban, Christopher (ACF) <Christopher.Hooban@acf.hhs.gov>

Subject: Re: odd question

Thanks!

Jonathan D. White, Ph.D., LCSW-C, CPH
Commander, U.S. Public Health Service Commissioned Corps

FHCO, UAC Reunification

HEALTH AND HUMAN SERVICES (DHHS) | Thomas P. O'Neill Federal Building | 200 C Street SW | Washington, DC 20515

o. (202) 730-8585 | m. (202) (b)(6)
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From: White, Jonathan (OS/ASPR/SPPR)
To: Hooban, Christopher (ACF)
Subject: Re: odd question
Date: Friday, August 31, 2018 7:35:26 AM

Thank you!

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From: Hooban, Christopher (ACF)
To: White, Jonathan (OS/ASPR/SPPR)
Subject: RE: odd question
Date: Friday, August 31, 2018 7:18:43 AM
Attachments: Summary Document .docx

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Key tasks for tomorrow:

- **ORR** and **ICE** review data plan comments by 10am
- **ASPR** provide updated data plan incorporating comments for legal review
- **ORR** prioritize providing draft of remaining List 2 LOD data by 3pm
- **ASPR** provide List 4-7 for legal review

Please let me know if there's anything I've missed, and feel free to reach out before the data call if you have pressing concerns. Thanks!~~Jesse Appler

Jessica Appler Ph.D.
Chief (acting), Modeling and Simulation
Information Management Division (IMD)
Security, Intel, and Information Management (SIIM)
Assistant Secretary for Preparedness and Response (ASPR)
Department of Health and Human Services (HHS)
jessica.appler@hhs.gov
Office: 202-205-9325
BB: (b)(6)

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DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

HHS FOIA Case No.: 2019-00144-FOIA
American Oversight v. HHS, 1:18-cv-02845-TJK (D.D.C.)

June 15, 2019

Sent via email

Austin Evers
American Oversight
1030 15th Street, N.W., Suite B255
Washington, DC 20005
foia@americanoversight.org

Dear Mr. Evers:

This is the second interim response to your October 18, 2018, Freedom of Information Act (FOIA) request to the U.S. Department of Health and Human Services (HHS). You sought the following records:

1. Records sufficient to identify any procedures, standards, guidance, policies, and rules with regard to conducting DNA tests of children and parents separated from each other by immigration authorities, including the storage or disposal of data gathered from that testing. This search should include:
 - a. Any final legal guidance or analyses produced by HHS and/or ACF regarding the decision to use DNA testing to reunite separated migrant families;
 - b. Records sufficient to show the office and program within HHS and/or ACF responsible for conducting DNA testing of separated migrant families;
 - c. Records reflecting any auditing and compliance mechanisms HHS and/or ACF have in place to ensure that the testing is in accordance with applicable laws and policies;
 - d. Records reflecting all guidance or standards for obtaining consent for DNA testing from migrant children in the care of HHS/ACF or adult family members; and
 - e. Records reflecting all plans for storage or destruction of genetic material & data obtained through DNA testing of separated families.
2. Records sufficient to show the names of the laboratory or laboratories HHS and/or ACF are working with to conduct the DNA testing, including contracts for the DNA testing of separated migrant families.
3. Records sufficient to show the types of genetic markers (e.g., STRs or SNPs) that these laboratories tested for and whether the laboratories used the CODIS STR panel to generate DNA fingerprints.
4. Records sufficient to show the cost of DNA testing of separated migrant families, and the source of the funds used for this testing, including any reassignment of funds to cover the cost of the testing.
5. All records reflecting any agreement to share information from DNA testing of separated migrant families with any entity outside of HHS, including the Federal Bureau of Investigation, any other part of the Department of Justice, any entity within the Department of Homeland Security, or the Department of State, including any memorandum of understanding with any other federal agency regarding the sharing of this information.

6. Records reflecting any procedure to reunite family members who cannot support their claims of relationship with DNA tests.
7. All documents produced in response to the July 13, 2018 letter from Reps. Jackie Speier and Karen Bass to Secretary Azar regarding transparency in HHS's use of DNA testing to reunite separated families.

Upon receipt, our office sent your request to several offices, including the Office for the Assistant Secretary for Preparedness and Response (ASPR), the Office of the Assistant Secretary for Legislation (ASL), the Office of the Assistant Secretary for Financial Resources (ASFR), and the Immediate Office of the Secretary (IOS), in order to conduct a search for records responsive to your request.

For this release, we reviewed 263 pages of records identified as responsive to items one (1), two (2), four (4), five (5), six (6), and seven (7) of your request. After a careful review of these pages, we have decided to release 15 pages to you, with redactions to portions of 2 pages under Exemptions 5 and 6 of the FOIA. Twenty-two (22) pages are being withheld, in full, under Exemption 5 of the FOIA, and 226 pages were determined to be non-responsive.

Exemption 5 protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." Among the privileges incorporated into Exemption 5 is the deliberative process privilege, which protects the "decision making processes of government agencies" and the attorney-client privilege, which protects "confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice." In accordance with these privileges, we have withheld – among other things – pre-decisional and deliberative conversations during the course of the Congressional response process, draft documents, and requests for Office of General Counsel advice.

Exemption 6 protects information about individuals in "personnel and medical files and similar files" when disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." Under this exemption, we have withheld cell phone numbers and the names of non-government employees.

We are continuing to review additional records and conduct additional searches for records responsive to your request. Thank you for your patience in this matter.

Sincerely,



Michael S. Marquis
Director
Freedom of Information and Privacy Acts Division

Enclosure: 16 Pages

Report to Congress on Separated Children

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GLOSSARY

American Civil Liberties Union (ACLU)
Area of Responsibility (AOR)
Country of Origin (COO)
Customs and Border Patrol (CBP)
Unaccompanied Alien Child (UAC)
Department of Health and Human Services (HHS)
Department of Homeland Security (DHS)
Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR)
Immigration and Customs Enforcement (ICE)
Incident Management Team (IMT)
National Crime Information Center (NCIC)
Liaison Officer (LNO)
Non-Governmental Organization (NGO)
Notice to Appear (NTA)
Office of Refugee Resettlement (ORR)
Point of Contact (POC)
U.S. Department of State (DOS)
William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA)
Zero Tolerance Policy (ZTP)

INTRODUCTION

On March 1, 2003, the Homeland Security Act of 2002 transferred responsibilities for the care and placement of unaccompanied alien children (UAC) from the Commissioner of the Immigration and Naturalization Service within the Department of Justice (DOJ) to the Director of the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS). Since then, ORR has cared for hundreds of thousands of children, incorporating child welfare practices as well as the principles and provisions established by the *Flores* Settlement Agreement in 1997, the Homeland Security Act of 2002, and the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008.

Department of Homeland Security (DHS) officials transfer UAC they apprehend to the care and custody of ORR. An unaccompanied alien child is a person who has no lawful immigration status in the United States and has not attained 18 years of age, and with respect to whom: (1) there is no parent or legal guardian in the United States; or (2) no parent or legal guardian in the United States is available to provide care and physical custody.¹ ORR promptly places an unaccompanied alien child in the least restrictive setting that is in the best interest of the child, taking into consideration danger to self, danger to the community, and risk of flight.² ORR takes into consideration the unique nature of each child's situation and incorporates child welfare principles when making placement, clinical, case management, and release decisions.³ DHS must refer UAC to HHS within 72 hours of making the UAC determination, except in the case of exceptional circumstances.⁴

On April 6, 2018, DOJ announced a zero-tolerance policy for criminal illegal entry, which affected parents crossing the border illegally with their children.⁵ Attorney General Sessions notified all U.S. Attorney's Offices along the southwest border of the "zero-tolerance policy" (ZTP) for offenses under 8 U.S.C. § 1325(a), which prohibits both attempted illegal entry and illegal entry into the United States by an alien.⁶ Persons who applied to enter the United States through a Port of Entry were not charged with offenses under 8 U.S.C. § 1325(a).

Pursuant to the ZTP, DHS officers referred the parent(s) of purported family units to the Department of Justice for prosecution for unauthorized entry into the United States. DHS then transferred the children as "unaccompanied alien children" to HHS because their parents were not available to provide them care and physical custody.

On June 20, 2018, President Trump issued an Executive Order directing the Secretary of Homeland Security to maintain custody of alien families during the pendency of any criminal improper entry or immigration proceedings involving their members unless there was a concern that detention of the alien child with the child's alien parent would pose a risk to the child's

¹ 6 U.S.C. § 279 (g)(2).

² 8 U.S.C. § 1232(c)(2).

³ ORR Guide: Children Entering the United States Unaccompanied (UAC Policy Guide) Section 1.2.1 (2018).

⁴ 8 U.S.C. § 1232(b)(3). A UAC determination may be made at or after the time of apprehension by DHS, depending on the facts and circumstances.

⁵ Department of Justice, Office of Public Affairs, April 6, 2018.

⁶ *Id.*

welfare.⁷ The order indicated that the parent(s) and children would no longer be separated.

In *Ms. L. v U.S. Immigration and Customs Enforcement*⁸, Judge Dana Sabraw of the United States District Court for the Southern District of California ordered the federal government to safely reunify class members (certain separated parents) with their children. HHS had custody of the separated children, thus the agency took a leading role in creating an interagency plan for reunification of the separated children with their parents.

Congress included the language below in the Department of Health and Human Services Appropriations Act, 2019 (the “Appropriations Act”):

“SEC. 233. The Secretary shall submit to the Congress by November 15, 2018, a plan to promptly facilitate the reunification of children separated from their parents and placed in the custody of the Office of Refugee Resettlement (“ORR”), including the reunification of children with parents who are no longer in the United States:

Provided, That such plan shall include possible children of potential class members in the class-action lawsuit *Ms. L v. ICE*, as identified in the Joint Status Report filed on September 6, 2018:

Provided further, That such plan shall describe the activities the Administration has undertaken to locate parents who are no longer in the United States and to reunify those parents with their children, including (1) the process for tracking children and parents, (2) the process for coordinating interagency responsibilities for communication, location, and reunification of such parents, and (3) the number of parents that the Administration has been unable to contact:

Provided further, That such plan shall provide detailed information on how many parents have been determined to be ineligible for reunification and the reasons for those determinations:

Provided further, That such plan shall identify the number of children in ORR custody whose parents were deported that (1) have been reunified with their parents, (2) have been released into the custody of a family member other than a parent, (3) have been released into the custody of a sponsor who is not a family member, and (4) are still in ORR custody:

Provided further, That such plan shall provide detailed information regarding the procedures the Administration follows when child sexual abuse is alleged at facilities operated by ORR contractors:

Provided further, That such plan shall include an estimate of expenditures in fiscal year 2018 and an estimate of anticipated expenditures in fiscal year 2019 related to housing

⁷ Exec. Order No. 13841, “Affording Congress an Opportunity to Address Family Separation”, 83 Fed. Reg. 29435-29436 (June 20, 2018).

⁸ *Ms. L. v U.S. Immigration and Customs Enforcement*, Case 3:18-cv-00428 (S.D. Cal. 2018).

children who were separated from their parents at the border as well as activities to reunify such children with their parents:

Provided further, That if such plan is not submitted by the deadline identified above, the Department of Health and Human Services may not, until such a plan has been submitted to the Congress, obligate funds from the Fund established by section 223 of title II of division G of Public Law 110–161, except to obligate H. R. 6157—117 funds for projects identified in the joint explanatory statement accompanying this Act.”⁹

ORR’s ORDINARY UAC PROCESS

To provide appropriate context for the information presented in this report, it is necessary to explain ORR’s ordinary process for tracking UAC from intake through discharge—that is, how ORR brings UAC into its care, creates and maintains records on UAC in an electronic tracking and case management system known as the UAC Portal, and discharges UAC to sponsors.

The U.S. Border Patrol (USBP) and U.S. Immigration Customs Enforcement (ICE) are responsible for the majority of UAC referrals to ORR. USBP’s E3 system of record database is able to push UAC biographic, apprehension, and, other referral information into ORR’s UAC Portal’s referral page. ICE has access to ORR’s UAC Portal referral page and directly enters UAC information into the system. In the summer of 2018, a checkbox was added to the UAC Portal’s referral page to indicate whether a child has been separated from family. The referral page also has a notes section where USBP and ICE can type in the name and other information of the separated family member, including their alien number. Additionally USBP and ICE can enter this information into the parent/relative information section of the referral.

When ORR receives a child that another federal agency has referred to its care, ORR performs several different assessments. These include:

- The UAC Assessment, which covers biographic, family, legal/migration, medical, substance abuse, and mental health history
- A trafficking assessment, which is part of the UAC Assessment and identifies whether a child has been trafficked
- An educational assessment, which determines academic level
- A medical assessment, which occurs within 48 hours of arrival in the ORR care provider facility
- The Assessment for Risk, which occurs within 72 hours of admission and every 30 days thereafter to reduce the risk that a child is sexually abused or abuses someone else in ORR care
- The UAC Case Review, which updates the child’s file initially on the child’s 30th day in care and subsequently every 30 days (or 90 days for children in long-term foster care)

Intakes policies are located at section 1 and 3 of the ORR policy guide, located at

⁹ “Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019,” Pub. L. No. 115-245, div. B, title II, sec. 233.

<https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>.

As ORR completes these assessments, grantee staff enter the alien registration number, name, biographical information and several assessments of the UAC into the UAC Portal. Case managers throughout the UAC grantee network use this system to create a complete case file for each child.¹⁰ Case managers enter case reviews into the UAC Portal every 30 days.¹¹ The Sponsor Information section is updated when new information becomes available.¹² When ORR releases a child to a sponsor, the sponsor must give ORR documentation of the address where the child will be living.¹³ At the time of physical release to a sponsor, ORR's legal obligations toward the child end.

Although ORR is not legally obligated to do so, thirty days after release to a sponsor, the ORR Call Center contacts the sponsor to ask questions as to the safety and well-being of the discharged child.¹⁴ The ORR Call Center is a contracted provider. After the 30-day well-being and safety call, ORR retains the record of the child but adds no additional information unless the child returns to ORR custody via a new referral from a Federal agency, which is rare.¹⁵

ORR policies on tracking children as they progress towards discharge appear in sections 2 and 3 of the UAC Policy Guide: <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>.

REUNIFICATION PLANS FOR SEPARATED CHILDREN

The language in the Appropriations Act on the reunification plans for separated children is as follows:

The Secretary shall submit to the Congress by November 15, 2018, a plan to promptly facilitate the reunification of children separated from their parents and placed in the custody of the Office of Refugee Resettlement (“ORR”), including the reunification of children with parents who are no longer in the United States:

Provided, that such plan shall include possible children of potential class members in the class-action lawsuit *Ms. L v. ICE*, as identified in the Joint Status Report filed on September 6, 2018:

Provided further, that such plan shall describe the activities the Administration has undertaken to locate parents who are no longer in the United States and to reunify those parents with their children, including (1) the process for tracking children and parents, (2) the process for coordinating interagency responsibilities for communication, location, and reunification of such parents, and (3) the number of parents that the Administration has

¹⁰ UAC Manual of Procedures (2017), Section 1.3, Referrals to ORR and Initial Placements.

¹¹ UAC Policy Guide (2018), Section 3.3.1, UAC Assessments and Case Review.

¹² UAC Policy Guide (2018), Section 2.2.2, Contacting Potential Sponsors.

¹³ UAC Policy Guide (2018), Section 2.2.4, Required Documents for Submission with the Application for Release.

¹⁴ UAC Policy Guide (2018), Section 2.8.4, Safety and Wellbeing Follow Up Call.

¹⁵ UAC Policy Guide (2018), Section 2.8.3, Closing the Case File.

been unable to contact.

HHS and its interagency partners are executing plans, approved by Judge Dana Sabraw in *Ms. L.*, for reunification of separated minors with their parents, which provide the information requested by Congress. These plans filed in *Ms. L.* are identified below and attached hereto:

- HHS/DHS Unified Plan of Operations For Reunification of 5-17 Year Old Population To Include Flow Chart and Summary of Required Steps, 14 July 2018.¹⁶
- Interagency Plan for Reunification of Separated Minors with Removed Parents, August 16, 2018.¹⁷

As of November 6, 2018, there were zero departed *Ms. L.* class members who the Administration had been unable to contact.¹⁸

STATISTICS

The Appropriations Act requests statistics related to separated parents and children in *Ms. L.* Specifically, it states:

Provided further, that such plan shall provide detailed information on how many parents have been determined to be ineligible for reunification and the reasons for those determinations:

Provided further, that such plan shall identify the number of children in ORR custody whose parents were deported that

- (1) have been reunified with their parents,
- (2) have been released into the custody of a family member other than a parent,
- (3) have been released into the custody of a sponsor who is not a family member, and
- (4) are still in ORR custody.

As of November 6, 2018, there were 30 children in *Ms. L.* whose parents are ineligible for reunification because the parent was determined to be unfit or present a danger to the child, based on the parent's criminal history or other individualized factual considerations bearing on fitness or dangerousness. As of November 6, 2018, 23 of these children remained in ORR custody.¹⁹

As of November 6, 2018, there were 117 children in ORR care with parents who were *Ms. L.* class members presently departed from the United States. The parents of 99 of the 117 children

¹⁶ July 15, 2018 Notice, *Ms. L. v U.S. Immigration and Customs Enforcement*, No. 3:18-cv-00428 (S.D. Cal. 2018), ECF No. 109, 109-1.

¹⁷ August 16, 2018 Notice Regarding Implementation of Plan for Reunifications Abroad, *Ms. L. v U.S. Immigration and Customs Enforcement*, Case No. 3:18-cv-00428 (S.D. Cal. 2018), ECF No. 189.

¹⁸ See November 8, 2018 Joint Status Report, *Ms. L. v U.S. Immigration and Customs Enforcement*, Case No. 3:18-cv-00428 (S.D. Cal. 2018) (attached).

¹⁹ *Id.*

waived reunification through the ACLU. In contrast, the parents of only 7 of the 117 children chose reunification in their country of origin through the ACLU. ORR was still waiting for the ACLU to communicate parental intent for 11 of the 117 children. Because the 117 children were “in ORR custody” as of November 6, 2018, none of them were reunified with a parent, released to a family member other than a parent, or released to a sponsor who is not a family member.²⁰

The data reporting to the *Ms. L.* court has not included cumulative reporting of discharges of possible children of potential class members who are presently departed from the United States, separate from other data points. Nevertheless, as of November 6, 2018, ORR had discharged 411 possible children of potential *Ms. L.* class members who were presently departed from the United States. One hundred and sixty of the 411 children were reunified with a parent. Eighty-seven of the 411 children were discharged to a Category 2 sponsor, meaning an immediate relative, such as a brother, sister, aunt, uncle, grandparent, or first cousin. Thirty-four of the 411 children were discharged to a Category 3 sponsor, meaning a distant relative or an unrelated adult individual.

ORR POLICY FOR SEXUAL ABUSE ALLEGATIONS

The language in the Appropriations Act on sexual abuse is as follows:

Provided further, that such plan shall provide detailed information regarding the procedures the Administration follows when child sexual abuse is alleged at facilities operated by ORR contractors.

ORR has a zero-tolerance policy for all forms of sexual abuse and sexual harassment in all of its care provider facilities.²¹ Care providers must report sexual abuse, sexual harassment, or inappropriate sexual behavior that occur in ORR-funded programs caring for children immediately but no later than four hours after learning of the allegation.²² Care providers report this information via a sexual abuse significant incident report (SIR). For purposes of a SIR, sexual abuse can include a wide range of allegations, and care providers are trained to over-report out of an abundance of caution.

Care providers report to the U.S. Department of Justice’s Federal Bureau of Investigation and the HHS’ Office of the Inspector General any allegations of sexual abuse that are subject to federal reporting laws or could constitute violations of federal law. Sexual abuse is defined at 34 U.S.C. § 20341 and in ORR regulations at 45 C.F.R. § 411.6.

Care providers also must follow state licensing requirements to report allegations of sexual harassment and inappropriate sexual behavior. Care providers report allegations of sexual abuse to ORR, child protective services (CPS), and the state licensing agency. In the case of a sexual abuse allegation involving minors, CPS or state licensing may cross-report to local law enforcement. If an allegation involves an adult, the care provider must independently notify local

²⁰ *Id.*

²¹ UAC Policy Guide (2018), Section 4.1.1, Sexual Abuse.

²² UAC Policy Guide (2018), Section 4.10.2, Care Provider Reporting Requirements.

law enforcement.

If a sexual abuse allegation involves a staff member, the care provider is required by regulation to suspend the staff member from all duties that would provide the staff member with access to UAC pending investigation.

ORR policies on sexual abuse and harassment appear on-line in the ORR Policy Guide at section 4: <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>.

ORR also published an interim final rule on the “Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children.”²³

ESTIMATE OF EXPENDITURES IN FY 2018 AND FY 2019

The language in the Appropriations Act for financial information is as follows:

Provided further, that such plan shall include an estimate of expenditures in fiscal year 2018 and an estimate of anticipated expenditures in fiscal year 2019 related to housing children who were separated from their parents at the border as well as activities to reunify such children with their parents.

The estimates of expenditures in FY 2018 and FY 2019 related to the care and reunification (or other appropriate discharge) of possible children of potential *Ms. L.* class members is below. The estimates are based on 2,667 minors identified as possible children of potential *Ms. L.* class members. ORR estimates the shelter costs, including clothing, education, recreation, and food at \$58,800,000. The estimated DNA screening costs are \$1,400,000.²⁴ The estimated medical services are \$2,670,000. The estimated legal services are \$4,010,000. The estimated case management and program support costs are \$13,470,000.²⁵ As of November 1, 2018, the total estimated cost is \$80,350,000, or four percent of the total amount of funds obligated for the UAC program in FY 2018. This cost is only a small part of total UAC costs in FY 2018. The costs incurred are ongoing as separated children remain in ORR custody.

| Number of Children | Average Days in ORR Care - per child | Estimated Shelter Costs - including Education and Food | Estimated DNA Screening | Estimated Medical Services | Estimated Legal Services | Case Management and Program Support | Total Estimated Cost |
|--------------------|--------------------------------------|--|-------------------------|----------------------------|--------------------------|-------------------------------------|----------------------|
| 2,667 | 83 | \$58,800,000 | \$1,400,000 | \$2,670,000 | \$4,010,000 | \$13,470,000 | \$80,350,000 |

²³ 45 CFR Part 411.

²⁴ DNA testing is utilized to verify parentage for children and parents where authenticated documents (such as birth certificates) are unavailable.

²⁵ This includes funding ORR reimbursed HHS/ASPR: \$3,500,000 for assistance in reunification costs; transportation costs to reunification sites; and costs incurred by grantees and contractors.

CONCLUSION

HHS and its interagency partners created reunification plans to meet the orders issued by the court in *Ms. L*. The plans continue to be executed to finish any remaining reunifications of *Ms. L* class members. As of November 6, 2018, there were only 25 possible children of potential class members in ORR care who had not been reunified with their parents. Those 25 children do not overlap with any of the 99 children in ORR care with a parent presently departed from the United States whose intent not to reunify was confirmed by the ACLU. Nor do they overlap with any of the 17 children in ORR care with a parent in the United States who has indicated an intent not to reunify. When a parent indicates an intent not to reunify, ORR discharges the child to a sponsor pursuant to its ordinary TVPRA processes (which generally involve further vetting and may take longer to complete than a reunification under the *Ms. L* court's orders).

As of November 6, 2018, more than 92 percent of the possible children of potential class members in *Ms. L* have been reunified or otherwise appropriately discharged.

From: Ekanemesang, Michelle (ACF) (CTR)
Sent: 30 Nov 2018 13:53:48 +0000
To: White, Jonathan (OS/ASPR/EMMO)
Cc: Biswas, Toby R M (ACF);Herboldsheimer, Shannon (ACF);Ray, Faith (ACF)
Subject: FW: Senate Finance QFRs
Attachments: (FR edits) Senate Committee on Finance Sec Hearing QFR (002).docx
Importance: High

Good Morning Jonathan,

Scott Logan asked for additional information on the answers your provided regarding family separations (see pp 10 and 17). Please, would you provide the requested information and return today?

Thank you,

Michelle

Michelle D. Ekanemesang
Policy Analyst

U.S. Department of Health and Human Services
Administration for Children and Families
Office of Refugee Resettlement
Office of the Director – Division of Policy and Procedures
202-401-4579
Michelle.Ekanemesang@acf.hhs.gov

From: Ray, Faith (ACF) <Faith.Ray@acf.hhs.gov>
Sent: Thursday, November 29, 2018 5:11 PM
To: Biswas, Toby R M (ACF) <Toby.Biswas@ACF.hhs.gov>; Herboldsheimer, Shannon (ACF) <Shannon.Herboldsheimer@acf.hhs.gov>; Ekanemesang, Michelle (ACF) (CTR) <Michelle.Ekanemesang@acf.hhs.gov>
Subject: RE: Senate Finance QFRs

Hi Toby,

My portion (pages 1-8) is complete. I used track changes so that OLAB can see what the changes are and how we've addressed their questions/comments.

Faith

Faith Ray, Program Analyst
**On detail with ORR Division of Policy & Procedures*
Office of Refugee Resettlement | Administration for Children & Families
330 C Street SW, Room 5123 | Washington DC 20201

Direct: 202.205.3982

From: Biswas, Toby R M (ACF) <Toby.Biswas@ACF.hhs.gov>
Sent: Thursday, November 29, 2018 3:44 PM
To: Herboldsheimer, Shannon (ACF) <Shannon.Herboldsheimer@acf.hhs.gov>; Ekanemesang, Michelle (ACF) (CTR) <Michelle.Ekanemesang@acf.hhs.gov>; Ray, Faith (ACF) <Faith.Ray@acf.hhs.gov>
Subject: FW: Senate Finance QFRs

Shannon, Michelle and Faith:

Can you please address Scott's comments? **This is due tomorrow.**

Thanks,
Toby

Toby R. M. Biswas, ESQ.
Unaccompanied Alien Children Policy Supervisor

U.S. Department of Health and Human Services
Administration for Children and Families
Office of Refugee Resettlement
Office of the Director – Division of Policy and Procedures

(202) 205-4440 (O)
(301) (b)(6) (C)
(202) 401-1022 (F)

From: Logan, Scott (ACF) <scott.logan@acf.hhs.gov>
Sent: Thursday, November 29, 2018 3:39 PM
To: Bena, Anna Marie (HHS/OGC) (ACF) <Annamarie.Bena@HHS.GOV>; White, Laura (ACF) <Laura.White@acf.hhs.gov>; Hayes, Jonathan (ACF) <Jonathan.Hayes@acf.hhs.gov>
Cc: Biswas, Toby R M (ACF) <Toby.Biswas@ACF.hhs.gov>; Moomaw, Sara (ACF) <Sara.Moomaw@ACF.hhs.gov>
Subject: RE: Senate Finance QFRs

Attached are all of my comments in one place. Please return a revised version to me ASAP tomorrow.

Scott Logan
Director
Division of Legislative and Regulatory Affairs
Office of Legislative Affairs and Budget
Administration for Children and Families
U.S. Department of Health and Human Services
330 C ST, SW Suite 5020D
Washington, D.C. 20201
202.401.4529

From: Bena, Anna Marie (HHS/OGC) (ACF) <Annamarie.Bena@HHS.GOV>
Sent: Thursday, November 29, 2018 8:09 AM
To: Logan, Scott (ACF) <scott.logan@acf.hhs.gov>; White, Laura (ACF) <Laura.White@acf.hhs.gov>;

Hayes, Jonathan (ACF) <Jonathan.Hayes@acf.hhs.gov>

Cc: Biswas, Toby R M (ACF) <Toby.Biswas@ACF.hhs.gov>; Moomaw, Sara (ACF) <Sara.Moomaw@ACF.hhs.gov>

Subject: RE: Senate Finance QFRs

Scott,

Here are the responses. There are also two attachments. This was a long one, and (b)(5)

(b)(5)

Thanks,

AnnaMarie

From: Logan, Scott (ACF) <scott.logan@acf.hhs.gov>

Sent: Friday, November 09, 2018 10:59 AM

To: White, Laura (ACF) <Laura.White@acf.hhs.gov>; Bena, Anna Marie (HHS/OGC) (ACF) <Annamarie.Bena@HHS.GOV>; Hayes, Jonathan (ACF) <Jonathan.Hayes@acf.hhs.gov>

Subject: RE: Senate Finance QFRs

Status update?

Scott Logan

Director

Division of Legislative and Regulatory Affairs

Office of Legislative Affairs and Budget

Administration for Children and Families

U.S. Department of Health and Human Services

330 C ST, SW Suite 5020D

Washington, D.C. 20201

202.401.4529

From: Logan, Scott (ACF)

Sent: Tuesday, October 23, 2018 10:48 AM

To: White, Laura (ACF) <Laura.White@acf.hhs.gov>; Bena, Anna Marie (HHS/OGC) (ACF) <Annamarie.Bena@HHS.GOV>; Hayes, Jonathan (ACF) <Jonathan.Hayes@acf.hhs.gov>

Subject: Senate Finance QFRs

Good morning,

Here's your next set of QFRs from the Secretary's June hearing on drug pricing before Senate Finance. ORR is so popular you even dominated the QFRs of a drug pricing hearing!

Please return by **COB, Oct. 30.**

Thanks,

Scott

Scott Logan

Director
Division of Legislative and Regulatory Affairs
Office of Legislative Affairs and Budget
Administration for Children and Families
U.S. Department of Health and Human Services
330 C ST, SW Suite 5020D
Washington, D.C. 20201
202.401.4529

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

HHS FOIA Case No.: 2019-00144-FOIA
American Oversight v. HHS, 1:18-cv-02845-TJK (D.D.C.)

July 15, 2019

Sent via email

Austin Evers
American Oversight
1030 15th Street, N.W., Suite B255
Washington, DC 20005
foia@americanoversight.org

Dear Mr. Evers:

This is the third interim response to your October 18, 2018, Freedom of Information Act (FOIA) request to the U.S. Department of Health and Human Services (HHS). You sought the following records:

1. Records sufficient to identify any procedures, standards, guidance, policies, and rules with regard to conducting DNA tests of children and parents separated from each other by immigration authorities, including the storage or disposal of data gathered from that testing. This search should include:
 - a. Any final legal guidance or analyses produced by HHS and/or ACF regarding the decision to use DNA testing to reunite separated migrant families;
 - b. Records sufficient to show the office and program within HHS and/or ACF responsible for conducting DNA testing of separated migrant families;
 - c. Records reflecting any auditing and compliance mechanisms HHS and/or ACF have in place to ensure that the testing is in accordance with applicable laws and policies;
 - d. Records reflecting all guidance or standards for obtaining consent for DNA testing from migrant children in the care of HHS/ACF or adult family members; and
 - e. Records reflecting all plans for storage or destruction of genetic material & data obtained through DNA testing of separated families.
2. Records sufficient to show the names of the laboratory or laboratories HHS and/or ACF are working with to conduct the DNA testing, including contracts for the DNA testing of separated migrant families.
3. Records sufficient to show the types of genetic markers (e.g., STRs or SNPs) that these laboratories tested for and whether the laboratories used the CODIS STR panel to generate DNA fingerprints.
4. Records sufficient to show the cost of DNA testing of separated migrant families, and the source of the funds used for this testing, including any reassignment of funds to cover the cost of the testing.
5. All records reflecting any agreement to share information from DNA testing of separated migrant families with any entity outside of HHS, including the Federal Bureau of Investigation, any other part of the Department of Justice, any entity within the Department of Homeland Security, or the Department of State, including any memorandum of understanding with any other federal agency regarding the sharing of this information.

6. Records reflecting any procedure to reunite family members who cannot support their claims of relationship with DNA tests.
7. All documents produced in response to the July 13, 2018 letter from Reps. Jackie Speier and Karen Bass to Secretary Azar regarding transparency in HHS's use of DNA testing to reunite separated families.

Upon receipt, our office sent your request to several offices, including the Office for the Assistant Secretary for Preparedness and Response (ASPR), the Office of the Assistant Secretary for Legislation (ASL), the Office of the Assistant Secretary for Financial Resources (ASFR), and the Immediate Office of the Secretary (IOS), in order to conduct a search for records responsive to your request.

For this release, we reviewed 225 pages of records identified as responsive to items one (1), two (2), four (4), five (5), six (6), and seven (7) of your request. These 225 pages constitute the entirety of potentially responsive records provided to the FOIA Office by the various program offices for this request to date. The FOIA Office are awaiting confirmation from the program offices to determine whether any other potentially responsive records exist.

After a careful review of these pages, we have decided to release 20 pages to you, with redactions to portions of 12 pages under Exemptions 5 and 6 of the FOIA. Twenty-two (22) pages are being withheld, in full, under Exemption 5 of the FOIA, and 183 pages were determined to be non-responsive.

Exemption 5 protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." Among the privileges incorporated into Exemption 5 is the deliberative process privilege, which protects the "decision making processes of government agencies" and the attorney-client privilege, which protects "confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice." In accordance with these privileges, we have withheld – among other things – pre-decisional and deliberative conversations during the course of the Congressional response process, draft documents, and requests for Office of General Counsel advice.

Exemption 6 protects information about individuals in "personnel and medical files and similar files" when disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." Under this exemption, we have withheld cell phone numbers and the names of non-government employees.

We are continuing to review additional records and conduct additional searches for records responsive to your request. Thank you for your patience in this matter.

Sincerely,



Michael S. Marquis
Director
Freedom of Information and Privacy Acts Division

Enclosure: 20 Pages

From: Fishman, Molly [mailto:Molly.Fishman@mail.house.gov]
Sent: Tuesday, July 24, 2018 4:11 PM
To: Sexton, Taylor (HHS/ASL)
Cc: Morse, Sara (HHS/ASL)
Subject: RE: Question from Rep. Speier

Dear Taylor & Sara,

Following up to the attached letter that Rep. Speier sent on 7/23 to check in regarding timeline for a response.

Thank you again for your assistance.

Best regards,

Molly

Molly Fishman
Senior Legislative Assistant | Congresswoman Jackie Speier (CA-14)
2465 Rayburn House Office Building
Washington, DC 20515
molly.fishman@mail.house.gov
P: 202.225.3531 | F: 202.226.4183
www.speier.house.gov

From: Fishman, Molly
Sent: Wednesday, July 18, 2018 4:01 PM
To: 'Sexton, Taylor (HHS/ASL)' <Taylor.Sexton@hhs.gov>
Cc: 'Morse, Sara (HHS/ASL)' <Sara.Morse@hhs.gov>
Subject: RE: Question from Rep. Speier

Dear Taylor,

Thank you again for sending these initial answers.

As a follow up to my email from yesterday, I wanted to clearly communicate that Congresswoman Speier has a very strong interest in learning which contractor HHS is working with the conduct the DNA testing. Thanks in advance for working with the contractor to acquire the permission you need to disclose their identity.

Best regards,

Molly

Molly Fishman
Senior Legislative Assistant | Congresswoman Jackie Speier (CA-14)
2465 Rayburn House Office Building

Washington, DC 20515
molly.fishman@mail.house.gov
P: 202.225.3531 | F: 202.226.4183
www.speier.house.gov

From: Fishman, Molly
Sent: Tuesday, July 17, 2018 11:16 AM
To: 'Sexton, Taylor (HHS/ASL)' <Taylor.Sexton@hhs.gov>
Cc: Morse, Sara (HHS/ASL) <Sara.Morse@hhs.gov>
Subject: RE: Question from Rep. Speier

Dear Taylor,

Thank you very much for providing these initial answers. We appreciate your assistance.

Additionally, I wanted to make sure you received the attached letter with additional questions that the Congresswoman sent on Friday. (I know Sara has this as well, but just wanted to make sure to have us all on the same page.)

Thank you again for your assistance.

Best regards,

Molly

Molly Fishman
Senior Legislative Assistant | Congresswoman Jackie Speier (CA-14)
2465 Rayburn House Office Building
Washington, DC 20515
molly.fishman@mail.house.gov
P: 202.225.3531 | F: 202.226.4183
www.speier.house.gov

From: Sexton, Taylor (HHS/ASL) [<mailto:Taylor.Sexton@hhs.gov>]
Sent: Tuesday, July 17, 2018 11:03 AM
To: Fishman, Molly <Molly.Fishman@mail.house.gov>
Cc: Morse, Sara (HHS/ASL) <Sara.Morse@hhs.gov>
Subject: RE: Question from Rep. Speier

Good morning Molly,

Please see below answers to your questions. I will follow-up with you regarding the 4th question.

1. • 1. What company(ies) is HHS working with to conduct the DNA testing?
 - a. • a. We are not releasing the contractor information at this time. We have not consulted with the contractor to get that permission.
 2. • 2. Which agency and subagency is in charge of testing? (I.e HHS/ORR or DOJ, etc?)
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Taylor Sexton, MPH
Advisor to the Assistant Secretary for Legislation
U.S. Department of Health and Human Services
Office: (202) 690-5708
Mobile: (202) (b)(6)

From: Fishman, Molly [<mailto:Molly.Fishman@mail.house.gov>]
Sent: Thursday, July 05, 2018 3:57 PM
To: Morse, Sara (HHS/ASL)
Subject: Question from Rep. Speier

Dear Sara,

I hope you're week is going well so far.

My boss, Congresswoman Jackie Speier, is looking for more information regarding the DNA testing at the border to reunite families. Will you please provide more information as soon as possible?

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Thank you in advance for your assistance.

Best regards,

Molly

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 Senior Legislative Assistant | Congresswoman Jackie Speier (CA-14)
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molly.fishman@mail.house.gov
 P: 202.225.3531 | F: 202.226.4183
www.speier.house.gov

Sent from my iPhone

| | |
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| Sender: | Morse, Sara (HHS/ASL) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EB3A04F7DBDE41049BFD10F490D3E178-MORSE, SARA> |
| Recipient: | Hayes, Sean (HHS/ASL) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ab89be1b2f78474fb2e6413c918e209c-Hayes, Sean> |
| Sent Date: | 2018/07/25 22:26:36 |
| Delivered Date: | 2018/07/25 22:26:00 |
| From: | Fishman, Molly <Molly.Fishman@mail.house.gov> |
| To: | Sexton, Taylor (HHS/ASL) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d9489634c5d949a1abf2f63b788fa813-Sexton, Tay> |
| CC: | Morse, Sara (HHS/ASL) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eb3a04f7dbde41049bfd10f490d3e178-Morse, Sara> |
| Subject: | RE: Question from Rep. Speier |
| Date: | 2018/07/24 16:12:03 |
| Priority: | Normal |
| Type: | Note |

Dear Taylor & Sara,

Following up to the attached letter that Rep. Speier sent on 7/23 to check in regarding timeline for a response.

Thank you again for your assistance.

Best regards,

Molly

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From: Fishman, Molly
Sent: Wednesday, July 18, 2018 4:01 PM
To: 'Sexton, Taylor (HHS/ASL)' <Taylor.Sexton@hhs.gov>
Cc: 'Morse, Sara (HHS/ASL)' <Sara.Morse@hhs.gov>
Subject: RE: Question from Rep. Speier

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From: Fishman, Molly
Sent: Tuesday, July 17, 2018 11:16 AM
To: 'Sexton, Taylor (HHS/ASL)' <Taylor.Sexton@hhs.gov>
Cc: Morse, Sara (HHS/ASL) <Sara.Morse@hhs.gov>
Subject: RE: Question from Rep. Speier

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| Sent Date: | 2018/07/24 16:10:59 |
| Delivered Date: | 2018/07/24 16:12:03 |
| From: | Fishman, Molly <Molly.Fishman@mail.house.gov> |
| To: | Sexton, Taylor (HHS/ASL) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d9489634c5d949a1abf2f63b788fa813-Sexton, Tay> |
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| Subject: | RE: Question from Rep. Speier |
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| Priority: | Normal |
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| Sent Date: | 2018/07/18 16:00:58 |

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| Delivered Date: | 2018/07/18 16:01:38 |
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| To: | Sexton, Taylor (HHS/ASL) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d9489634c5d949a1abf2f63b788fa813-Sexton, Tay> |
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| Subject: | RE: Question from Rep. Speier |
| Date: | 2018/07/17 11:16:14 |
| Priority: | Normal |
| Type: | Note |

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To: Morse, Sara (HHS/ASL)
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| Sent Date: | 2018/07/17 11:15:31 |
| Delivered Date: | 2018/07/17 11:16:14 |
| From: | Sexton, Taylor (HHS/ASL) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D9489634C5D949A1ABF2F63B788FA813-SEXTON, TAY> |
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| Subject: | RE: Question from Rep. Speier |
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| Priority: | Normal |
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| Sent Date: | 2018/07/17 11:03:18 |
| Delivered Date: | 2018/07/17 11:03:20 |
| From: | Morse, Sara (HHS/ASL) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EB3A04F7DBDE41049BFD10F490D3E178-MORSE, SARA> |
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| Subject: | FW: Question from Rep. Speier |
| Date: | 2018/07/09 18:23:00 |
| Priority: | Normal |
| Type: | Note |

From: Ekanemesang, Michelle (ACF) (CTR)
Sent: 30 Nov 2018 13:53:48 +0000
To: White, Jonathan (OS/ASPR/EMMO)
Cc: Biswas, Toby R M (ACF);Herboldsheimer, Shannon (ACF);Ray, Faith (ACF)
Subject: FW: Senate Finance QFRs
Attachments: (FR edits) Senate Committee on Finance Sec Hearing QFR (002).docx
Importance: High

Good Morning Jonathan,

Scott Logan asked for additional information on the answers your provided regarding family separations (see pp 10 and 17). Please, would you provide the requested information and return today?

Thank you,

Michelle

Michelle D. Ekanemesang
Policy Analyst

U.S. Department of Health and Human Services
Administration for Children and Families
Office of Refugee Resettlement
Office of the Director – Division of Policy and Procedures
202-401-4579
Michelle.Ekanemesang@acf.hhs.gov

From: Ray, Faith (ACF) <Faith.Ray@acf.hhs.gov>
Sent: Thursday, November 29, 2018 5:11 PM
To: Biswas, Toby R M (ACF) <Toby.Biswas@ACF.hhs.gov>; Herboldsheimer, Shannon (ACF) <Shannon.Herboldsheimer@acf.hhs.gov>; Ekanemesang, Michelle (ACF) (CTR) <Michelle.Ekanemesang@acf.hhs.gov>
Subject: RE: Senate Finance QFRs

Hi Toby,

My portion (pages 1-8) is complete. I used track changes so that OLAB can see what the changes are and how we've addressed their questions/comments.

Faith

Faith Ray, Program Analyst
**On detail with ORR Division of Policy & Procedures*
Office of Refugee Resettlement | Administration for Children & Families
330 C Street SW, Room 5123 | Washington DC 20201

Direct: 202.205.3982

From: Biswas, Toby R M (ACF) <Toby.Biswas@ACF.hhs.gov>
Sent: Thursday, November 29, 2018 3:44 PM
To: Herboldsheimer, Shannon (ACF) <Shannon.Herboldsheimer@acf.hhs.gov>; Ekanemesang, Michelle (ACF) (CTR) <Michelle.Ekanemesang@acf.hhs.gov>; Ray, Faith (ACF) <Faith.Ray@acf.hhs.gov>
Subject: FW: Senate Finance QFRs

Shannon, Michelle and Faith:

Can you please address Scott's comments? **This is due tomorrow.**

Thanks,
Toby

Toby R. M. Biswas, ESQ.
Unaccompanied Alien Children Policy Supervisor

U.S. Department of Health and Human Services
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Office of the Director – Division of Policy and Procedures

(202) 205-4440 (O)
(301) (b)(6) (C)
(202) 401-1022 (F)

From: Logan, Scott (ACF) <scott.logan@acf.hhs.gov>
Sent: Thursday, November 29, 2018 3:39 PM
To: Bena, Anna Marie (HHS/OGC) (ACF) <Annamarie.Bena@HHS.GOV>; White, Laura (ACF) <Laura.White@acf.hhs.gov>; Hayes, Jonathan (ACF) <Jonathan.Hayes@acf.hhs.gov>
Cc: Biswas, Toby R M (ACF) <Toby.Biswas@ACF.hhs.gov>; Moomaw, Sara (ACF) <Sara.Moomaw@ACF.hhs.gov>
Subject: RE: Senate Finance QFRs

Attached are all of my comments in one place. Please return a revised version to me ASAP tomorrow.

Scott Logan
Director
Division of Legislative and Regulatory Affairs
Office of Legislative Affairs and Budget
Administration for Children and Families
U.S. Department of Health and Human Services
330 C ST, SW Suite 5020D
Washington, D.C. 20201
202.401.4529

From: Bena, Anna Marie (HHS/OGC) (ACF) <Annamarie.Bena@HHS.GOV>
Sent: Thursday, November 29, 2018 8:09 AM
To: Logan, Scott (ACF) <scott.logan@acf.hhs.gov>; White, Laura (ACF) <Laura.White@acf.hhs.gov>;

Hayes, Jonathan (ACF) <Jonathan.Hayes@acf.hhs.gov>

Cc: Biswas, Toby R M (ACF) <Toby.Biswas@ACF.hhs.gov>; Moomaw, Sara (ACF) <Sara.Moomaw@ACF.hhs.gov>

Subject: RE: Senate Finance QFRs

Scott,

Here are the responses. There are also two attachments. This was a long one, and (b)(5)

(b)(5)

Thanks,

AnnaMarie

From: Logan, Scott (ACF) <scott.logan@acf.hhs.gov>

Sent: Friday, November 09, 2018 10:59 AM

To: White, Laura (ACF) <Laura.White@acf.hhs.gov>; Bena, Anna Marie (HHS/OGC) (ACF) <Annamarie.Bena@HHS.GOV>; Hayes, Jonathan (ACF) <Jonathan.Hayes@acf.hhs.gov>

Subject: RE: Senate Finance QFRs

Status update?

Scott Logan

Director

Division of Legislative and Regulatory Affairs

Office of Legislative Affairs and Budget

Administration for Children and Families

U.S. Department of Health and Human Services

330 C ST, SW Suite 5020D

Washington, D.C. 20201

202.401.4529

From: Logan, Scott (ACF)

Sent: Tuesday, October 23, 2018 10:48 AM

To: White, Laura (ACF) <Laura.White@acf.hhs.gov>; Bena, Anna Marie (HHS/OGC) (ACF) <Annamarie.Bena@HHS.GOV>; Hayes, Jonathan (ACF) <Jonathan.Hayes@acf.hhs.gov>

Subject: Senate Finance QFRs

Good morning,

Here's your next set of QFRs from the Secretary's June hearing on drug pricing before Senate Finance. ORR is so popular you even dominated the QFRs of a drug pricing hearing!

Please return by **COB, Oct. 30.**

Thanks,

Scott

Scott Logan

Director
Division of Legislative and Regulatory Affairs
Office of Legislative Affairs and Budget
Administration for Children and Families
U.S. Department of Health and Human Services
330 C ST, SW Suite 5020D
Washington, D.C. 20201
202.401.4529

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

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of the Freedom of Information Act

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